





Digitized by the Internet Archive
in 2011 with funding from
CARLI: Consortium of Academic and Research Libraries in Illinois

8.02
LIA
24
el 38
2

2000

ILLINOIS DOCUMENTS

SEP 15 2000

ILLINOIS STATE LIBRARY

ILLINOIS

REGISTER

RULES
OF GOVERNMENTAL
AGENCIES



Volume 24, Issue 38
September 15, 2000

Pages 13,759 – 14,113

Index Department
Administrative Code Div.
111 East Monroe Street
Springfield, IL 62756
(217) 782-7017
<http://www.sos.state.il.us>



Printed on recycled paper

PUBLISHED BY JESSE WHITE • SECRETARY OF STATE

TABLE OF CONTENTS

September 15, 2000 Volume 24, Issue 38

PROPOSED RULES

EMPLOYMENT SECURITY, DEPARTMENT OF Determination Of Unemployment Contributions 56 Ill. Adm. Code 2770	13759
ENVIRONMENTAL PROTECTION AGENCY Procedures For Collection Of Review And Evaluation Services Costs 35 Ill. Adm. Code 859, Repeal Of	13767
State Remedial Action Priority List 35 Ill. Adm. Code 860, Repeal Of	13776
HEALTH FACILITIES PLANNING BOARD Health Facilities Planning Procedural Rules 77 Ill. Adm. Code 1130	13783
Practice And Procedure In Administrative Hearings 77 Ill. Adm. Code 1180	13790
HOUSING DEVELOPMENT AUTHORITY, ILLINOIS Affordable Housing Program 47 Ill. Adm. Code 360	13795
INSURANCE, DEPARTMENT OF Retrospective Compensation Agreements 50 Ill. Adm. Code 922, Repeal Of	13797
Variable Contract Rule 50 Ill. Adm. Code 1451	13801
NATURAL RESOURCES, DEPARTMENT OF Disabled Hunting Method Authorizations 17 Ill. Adm. Code 760	13814
POLLUTION CONTROL BOARD Mobile Sources 35 Ill. Adm. Code 240	13820
REVENUE, DEPARTMENT OF Property Tax Code 86 Ill. Adm. Code 110	13850
STUDENT ASSISTANCE COMMISSION, ILLINOIS Arthur F. Quern Information Technology Grant Program 23 Ill. Adm. Code 2740	13856

ADOPTED RULES

COMMERCE COMMISSION, ILLINOIS Standards Of Service For Local Exchange Telecommunications Carriers 83 Ill. Adm. Code 730	13861
EDUCATION, STATE BOARD OF Special Education 23 Ill. Adm. Code 226, Repeal Of	13879
Special Education 23 Ill. Adm. Code 226	13884
GOVERNOR'S ETHICS COMMISSION Rules Governing Commission Meetings And Hearings 2 Ill. Adm. Code 1610	13978
HUMAN SERVICES, DEPARTMENT OF Child Care 89 Ill. Adm. Code 50	13987
PROFESSIONAL REGULATION, DEPARTMENT OF Illinois Dental Practice Act 68 Ill. Adm. Code 1220	13992
Illinois Public Accounting Act 68 Ill. Adm. Code 1420	14005
PUBLIC HEALTH, DEPARTMENT OF Children's Respite Care Center Demonstration Program Code 77 Ill. Adm. Code 260	14016
Freestanding Emergency Center Demonstration Program Code 77 Ill. Adm. Code 518	14026
Postsurgical Recovery Care Center Demonstration Program Code 77 Ill. Adm. Code 210	14037
Implementation Of Titles Xviii And Xix Of The Social Security Act Relating To Skilled Nursing And Intermediate Care Facilities 77 Ill. Adm. Code 420	14047
Subacute Care Hospital Demonstration Program Code 77 Ill. Adm. Code 270	14055
EMERGENCY RULES HOUSING DEVELOPMENT AUTHORITY, ILLINOIS Affordable Housing Program 47 Ill. Adm. Code 360	14065
NATURAL RESOURCES, DEPARTMENT OF Dog Training On Department-Owned Or -Managed Sites 17 Ill. Adm. Code 950	14069

PERMISSORY RULES

AGRICULTURE, DEPARTMENT OF	
Meat And Poultry Inspection Act	
8 Ill. Adm. Code 125	.....14074

AGENCY NOTICES OF MODIFICATION, WITHDRAWAL OR REFUSAL TO PROPOSED RULES

HUMAN SERVICES, DEPARTMENT OF	
Child Care	
89 Ill. Adm. Code 50, Refusal	.....14088

PUBLIC HEALTH, DEPARTMENT OF	
Asbestos Abatement For Public And Private Schools And Commercial And Public Buildings In Illinois	
77 Ill. Adm. Code 855, Withdrawal	.....14089

JOINT COMMITTEE ON ADMINISTRATIVE RULES

Agenda for Meeting of September 19, 2000	.....14090
Second Notices Received	.....14097

EXECUTIVE ORDERS AND PROCLAMATIONS

PROCLAMATIONS

00-380 Theoretical And Applied Mechanics Day (Revised 2)	.....14099
00-402 English Brothers Day	.....14099
00-403 Imam W. Deen Mohammed Weekend	.....14100
00-404 Pleasantville Fire Protection District 90 Day Referendum Period	.....14100
00-405 Alcohol And Drug Addiction Recovery Month	.....14101
00-406 Family Day	.....14101
00-407 Freeport Elks Lodge #617 Day	.....14101
00-408 Ukrainian Day	.....14102
00-409 Ukrainian Day (Revised)	.....14102
00-410 Chicago Torah Network Day	.....14103
00-411 Food Safety Awareness Month	.....14103
00-412 Make A Difference Day	.....14104
00-413 Menopause Awareness Month (Revised)	.....14105
00-414 Menopause Awareness Month	.....14105
00-415 Uruguay Day	.....14105
00-416 Hans Becherer Day	.....14105
00-417 Illinois Society For Respiratory Care Week	.....14106
00-418 Ovarian Cancer Awareness Month	.....14106
00-419 Southern Gospel Music Month	.....14107
00-420 Stuart Hawbaker Day	.....14107
00-421 Dystonia Awareness Week	.....14108

00-420 Islamic Society of North America Days	.....14108
00-421 Solidarity Day	.....14109
00-422 Turner Syndrome Awareness Week	.....14109
00-423 Certified Professional Secretaries Month	.....14110
00-424 Consulate of Guatemala Days	.....14111
00-425 Payroll Week	.....14111
00-426 German American Day	.....14112
00-427 Iron Overload Diseases Awareness Week	.....14112
00-428 Literacy Month	.....14112
00-429 Stepfamily Day	.....14113
00-430 Yellow Ribbon Youth Suicide Awareness And Prevention Week	.....14113

ISSUES INDEX I-1

Editor's Note: The Cumulative Index and Sections Affected Index will be printed on a quarterly basis. The printing schedule for the quarterly and annual indexes are as follows:

Issue 16-April	14, 2000; Data Through March	31, 2000
Issue 17-July	14, 2000; Data Through June	30, 2000
Issue 18-October	13, 2000; Data Through September	30, 2000
Issue 19-January	19, 2001; Data Through December	31, 2000 (Annual)

INTRODUCTION

The *Illinois Register* is the official state document for publishing public notice of rulemaking activity initiated by State governmental agencies. The table of contents is arranged categorically by rulemaking activity and alphabetically by agency within each category. The Register also contains a Cumulative Index listing alphabetically by agency the Parts (sets of rules) on which rulemaking activity has occurred in the current Register volume year and a Sections Affected Index listing by Title each Section (including supplementary material) of a Part on which rulemaking activity has occurred in the current volume year. Both indices are action coded and are designed to aid the public in monitoring rules.

Rulemaking activity consists of proposed or adopted new rules; amendments to or repealers of existing rules; and rules promulgated by emergency or peremptory action. Executive Orders and Proclamations issued by the Governor; notices of public information required by State statute; and activities (meeting agendas, Statements of Objection or Recommendation, etc.) of the Joint Committee on Administrative Rules (JCAR), a legislative oversight committee which monitors the rulemaking activities of State agencies; is also published in the Register.

The Register is a weekly update to the *Illinois Administrative Code* (a compilation of the rules adopted by State agencies). The most recent edition of the Code along with the Register comprise the most current accounting of State agencies' rules.

The Illinois Register is the property of the State of Illinois, granted by the authority of the Illinois Administrative Procedure Act [5 ILCS 100/1-1 et seq.].

REGISTER PUBLICATION SCHEDULE 2000

Issue #	Copy Due by 4:30 p.m.	Publication Date	Issue #	Copy Due by 4:30 p.m.	Publication Date
Issue 1	December 27, 1999	January 7, 2000	Issue 28	June 26	July 7
Issue 2	January 4, 2000*	January 14	Issue 29	July 3	July 14
Issue 3	January 10	January 21	Issue 30	July 10	July 21
Issue 4	January 18*	January 28	Issue 31	July 17	July 28
Issue 5	January 24	February 4	Issue 32	July 24	August 4
Issue 6	January 31*	February 14**	Issue 33	July 31	August 11
Issue 7	February 7	February 18	Issue 34	August 7	August 18
Issue 8	February 14	February 25	Issue 35	August 14	August 25
Issue 9	February 22*	March 3	Issue 36	August 21	September 1
Issue 10	February 28	March 10	Issue 37	August 28	September 8
Issue 11	March 6	March 17	Issue 38	September 5*	September 15
Issue 12	March 13	March 24	Issue 39	September 11	September 22
Issue 13	March 15	March 26	Issue 40	September 18	September 29
Issue 14	March 20	March 31	Issue 41	September 25	October 6
Issue 15	March 27	April 7	Issue 42	October 2	October 13
Issue 16	April 3	April 14	Issue 44	October 10*	October 20
Issue 17	April 10	April 21	Issue 43	October 16	October 27
Issue 18	April 17	April 28	Issue 44	October 23	November 3
Issue 19	April 24	May 5	Issue 45	October 30	November 13**
Issue 20	May 1	May 12	Issue 46	November 6	November 17
Issue 21	May 8	May 19	Issue 47	November 13	November 27**
Issue 22	May 15	May 26	Issue 48	November 20	December 1
Issue 23	May 22	June 2	Issue 49	November 27	December 8
Issue 24	May 30*	June 9	Issue 50	December 4	December 15
Issue 25	June 5	June 16	Issue 51	December 11	December 22
Issue 26	June 12	June 23	Issue 52	December 18	December 29
Issue 27	June 19	June 30	Issue 1	December 26*	January 5, 2001

* Tuesday 12 noon deadline following a state holiday.

** Monday publication date following a state holiday.

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Determination of Unemployment Contributions
- 2) Code Citation: 56 Ill. Adm. Code 2770
- 3) Section Numbers: Proposed Action:
2770.110 Amended
- 4) Statutory Authority: 820 ILCS 405/1500, 1501, 1503, 1506.1, 1506.2, 1506.3, 1508.1, 1700 and 1701.
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendment to Part 2770 announces the 2001 contribution rates for newly liable employers by classification within their Standard Industrial Code. In keeping with our commitment to the Joint Committee on Administrative Rules, we are also repealing the obsolete subsection with the rates for 1995 as it is no longer needed.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate.

- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

Gregory J. Rameil, Deputy Legal Counsel
Illinois Department of Employment Security
401 South State Street - 7th Floor South
Chicago IL 60605
312-793-4240

The Department requests the submission of written comments within 45 days after the publication of this notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

This proposed amendment may have an impact on small businesses and not for profit corporations as defined in Sections 1-75 and 1-85 of the Illinois Administrative Procedure Act [5 ILCS 100/1-75 and 1-85]. These entities may submit comments in writing to the Department at the above address in

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF PROPOSED AMENDMENTS

- accordance with the regulatory flexibility provisions in Section 5-30 of the Illinois Administrative Procedure Act [5 ILCS 100/5-30]. These entities shall indicate their status as a small business or not-for-profit corporation as part of any written comments that they submit to the Department.
- 12) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected: The proposed amendment affects all businesses equally.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
 - 13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: It is already provided for in Section 2770.105 that the Director shall annually announce the Standard Industrial Code rates for the upcoming year. Since 1984, the Director has been doing so through an amendment to Section 2770.110 so it was thought that it would be redundant to include this rulemaking in a Regulatory Agenda.

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF PROPOSED AMENDMENTS

TITLE 56: LABOR AND EMPLOYMENT
CHAPTER IV: DEPARTMENT OF EMPLOYMENT SECURITY
SUBCHAPTER C: RIGHTS AND DUTIES OF EMPLOYERS

PART 2770

DETERMINATION OF UNEMPLOYMENT CONTRIBUTIONS

SUBPART AB: STANDARD INDUSTRIAL CLASSIFICATION

Section
2770.100 Industrial Classification
2770.105 Contribution Rate For Non Experience-Rated Employers
2770.110 Average Contribution Rates By Standard Industrial Classification (SIC) Codes

SUBPART BE: ALTERNATIVE BENEFIT WAGE RATIO (Repealed)

Section
2770.150 Eligibility To Elect The Alternative Benefit Wage Ratio (Repealed)
2770.155 Approval Of Election Of The Alternative Benefit Wage Ratio (Repealed)
2770.160 Adjustment Of Benefit Wage Charges And The Determination Of The Alternative Benefit Wage Ratio (Repealed)
2770.165 Revocation Of Election Of Alternative Benefit Wage Ratio (Repealed)
2770.170 Appeals (Repealed)

SUBPART CE: TRANSFER OF BENEFIT WAGES FROM BASE PERIOD TO SUBSEQUENT EMPLOYER (Repealed)

Section
2770.400 Definitions (Repealed)
2770.405 Application of Base Period Wages (Repealed)
2770.410 Restriction On Benefit Wage Transfers (Repealed)
2770.415 Benefit Wage Transfer Procedural Requirements (Repealed)
2770.420 Petition For Hearing (Repealed)

SUBPART DF: BENEFIT WAGE CANCELLATIONS

Section
2770.501 Effective Date Of Benefit Wage Cancellations Pursuant To Section 1508.1 Of The Act

TABLE A. General SIC Classifications

AUTHORITY: Implementing and authorized by Sections 1500, 1501, 1503, 1506.1, 1506.2, 1506.3, 1508.1, 1700 and 1701 of the Unemployment Insurance Act [820 ILCS 405/1500, 1501, 1503, 1506.1, 1506.2, 1506.3, 1508.1, 1700 and 1701].

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF PROPOSED AMENDMENTS

SOURCE: Emergency rules adopted as 56 Ill. Adm. Code 600: Subpart C at 8 Ill. Reg. 550, effective January 1, 1984, for a maximum of 150 days; adopted at 8 Ill. Reg. 8208, effective May 30, 1984; recodified from 56 Ill. Adm. Code 600: Subpart C at 8 Ill. Reg. 15030; emergency amendments at 8 Ill. Reg. 15088, effective August 8, 1984, for a maximum of 150 days; emergency amendments at 8 Ill. Reg. 22139, effective October 26, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 24117, effective November 30, 1984; amended at 9 Ill. Reg. 4507, effective March 25, 1985; amended at 10 Ill. Reg. 6935, effective April 14, 1986; amended at 10 Ill. Reg. 21683, effective December 15, 1986; amended at 11 Ill. Reg. 9878, effective May 11, 1987; emergency amendments at 12 Ill. Reg. 210, effective January 1, 1988, for a maximum of 150 days; expired May 30, 1988; amended at 12 Ill. Reg. 11213, effective June 20, 1988; amended at 12 Ill. Reg. 12473, effective July 15, 1988; amended at 12 Ill. Reg. 18143, effective October 27, 1988; amended at 12 Ill. Reg. 20477, effective November 28, 1988; amended at 13 Ill. Reg. 11507, effective June 29, 1989; amended at 14 Ill. Reg. 2038, effective January 19, 1990; amended at 14 Ill. Reg. 18280, effective October 30, 1990; amended at 15 Ill. Reg. 172, effective December 28, 1990; amended at 15 Ill. Reg. 8553, effective May 24, 1991; amended at 16 Ill. Reg. 118, effective December 20, 1991; amended at 17 Ill. Reg. 295, effective December 28, 1992; amended at 18 Ill. Reg. 250, effective January 1, 1994; amended at 18 Ill. Reg. 17473, effective January 1, 1995; amended at 20 Ill. Reg. 350, effective January 1, 1996; amended at 21 Ill. Reg. 561, effective January 1, 1997; amended at 21 Ill. Reg. 15496, effective January 1, 1998; amended at 23 Ill. Reg. 155, effective January 1, 1999; amended at 23 Ill. Reg. 14299, effective January 1, 2000; amended at 24 Ill. Reg. _____, effective _____.

SUBPART AB: STANDARD INDUSTRIAL CLASSIFICATION

Section 2770.110 Average Contribution Rates By Standard Industrial Classification (SIC) Codes

a) The average contribution rate for each Economic Division--excluding the fund-building rate as set forth in Section 1506.3 of the Act--for calendar year--1995--as determined by the application of Section 2770.105(a)(4) of this Part, shall be:

Digits	Economic Division	Rate
01-09	A--Agriculture--Forestry	4-08
10-14	Fishing	4-58
15-17	B--Mining	5-08
20-39	C--Construction	3-28
40-49	D--Manufacturing	3-08
	E--Transportation--Communication--Electric--Gas	
50-54	Sanitary--Services	
	F--Wholesale--Trade	2-48

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF PROPOSED AMENDMENTS

52-59	6---Retail-Grade	1-9%
60-67	H---Finance--Insurance--Real Estate	1-7%
70-89	I---Services	1-8%
91-97	J---Public-Administration	1-6%
99	K---Nonclassifiable-Establishments	2-5%

b) The average contribution rate for each Economic Division, excluding the fund building rate as set forth in Section 1506.3 of the Act, for calendar year 1996, as determined by the application of Section 2770.105(a)(4) of this Part, shall be:

Digits	Economic Division	Rate
01-09	A. Agriculture, Forestry, Fishing	3.9%
10-14	B. Mining	4.3%
15-17	C. Construction	4.7%
20-39	D. Manufacturing	2.8%
40-49	E. Transportation, Communication, Electric, Gas, Sanitary Services	2.7%
50-51	F. Wholesale Trade	2.2%
52-59	G. Retail Trade	1.7%
60-67	H. Finance, Insurance, Real Estate	1.5%
70-89	I. Services	1.7%
91-97	J. Public Administration	1.6%
99	K. Nonclassifiable Establishments	2.4%

be) The average contribution rate for each Economic Division, excluding the fund building rate as set forth in Section 1506.3 of the Act, for calendar year 1997, as determined by the application of Section 2770.105(a)(4) of this Part, shall be:

Digits	Economic Division	Rate
01-09	A. Agriculture, Forestry, Fishing	3.2%
10-14	B. Mining	3.6%
15-17	C. Construction	3.8%
20-39	D. Manufacturing	1.9%
40-49	E. Transportation, Communication, Electric, Gas, Sanitary Services	1.9%
50-51	F. Wholesale Trade	1.5%

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF PROPOSED AMENDMENTS

52-59	G. Retail Trade	1.2%
60-67	H. Finance, Insurance, Real Estate	1.2%
70-89	I. Services	1.2%
91-97	J. Public Administration	1.1%

cd) The average contribution rate for each Economic Division, excluding the fund building rate as set forth in Section 1506.3 of the Act, for calendar year 1998, as determined by the application of Section 2770.105(a)(4) of this Part, shall be:

Digits	Economic Division	Rate
01-09	A. Agriculture, Forestry, Fishing	3.1%
10-14	B. Mining	3.4%
15-17	C. Construction	3.5%
20-39	D. Manufacturing	1.9%
40-49	E. Transportation, Communication, Electric, Gas, Sanitary Services	1.9%
50-51	F. Wholesale Trade	1.5%
52-59	G. Retail Trade	1.2%
60-67	H. Finance, Insurance, Real Estate	1.2%
70-89	I. Services	1.2%
91-97	J. Public Administration	1.1%

de) The average contribution rate for each Economic Division, excluding the fund building rate as set forth in Section 1506.3 of the Act, for calendar year 1999, as determined by the application of Section 2770.105(a)(4) of this Part, shall be:

Digits	Economic Division	Rate
01-09	A. Agriculture, Forestry, Fishing	3.0%
10-14	B. Mining	3.2%
15-17	C. Construction	3.3%
20-39	D. Manufacturing	1.8%
40-49	E. Transportation, Communication, Electric, Gas, Sanitary Services	1.8%
50-51	F. Wholesale Trade	1.4%
52-59	G. Retail Trade	1.1%
60-67	H. Finance, Insurance, Real Estate	1.1%
70-89	I. Services	1.1%
91-97	J. Public Administration	1.0%

ef) The average contribution rate for each Economic Division, excluding the fund building rate as set forth in Section 1506.3 of the Act, for calendar year 2000, as determined by the application of Section

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF PROPOSED AMENDMENTS

2770.105(a)(4) of this Part, shall be:

Digits	Economic Division	Rate
01-09	A. Agriculture, Forestry, Fishing	3.0%
10-14	B. Mining	3.1%
15-17	C. Construction	3.2%
20-39	D. Manufacturing	1.8%
40-49	E. Transportation, Communication, Electric, Gas, Sanitary Services	1.8%
50-51	F. Wholesale Trade	1.3%
52-59	G. Retail Trade	1.0%
60-67	H. Finance, Insurance, Real Estate	1.0%
70-89	I. Services	1.1%
91-97	J. Public Administration	1.0%

f) The average contribution rate for each Economic Division, excluding the fund building rate as set forth in Section 1506.3 of the Act, for calendar year 2001, as determined by the application of Section 2770.105(a)(4) of this Part, shall be:

Digits	Economic Division	Rate
01-09	A. Agriculture, Forestry, Fishing	2.8%
10-14	B. Mining	3.2%
15-17	C. Construction	3.0%
20-39	D. Manufacturing	1.6%
40-49	E. Transportation, Communication, Electric, Gas, Sanitary Services	1.6%
50-51	F. Wholesale Trade	1.2%
52-59	G. Retail Trade	0.9%
60-67	H. Finance, Insurance, Real Estate	1.0%
70-89	I. Services	1.0%
91-97	J. Public Administration	0.9%

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART BE: ALTERNATIVE BENEFIT WAGE RATIO (Repealed)

Section 2770.150 Eligibility To Elect The Alternative Benefit Wage Ratio (Repealed)

(Source: Repealed at 14 Ill. Reg. 18280, effective October 30, 1990)

SUBPART CB: TRANSFER OF BENEFIT WAGES FROM BASE PERIOD TO
SUBSEQUENT EMPLOYER (Repealed)

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF PROPOSED AMENDMENTS

Section 2770.400 Definitions (Repealed)

(Source: Repealed at 15 Ill. Reg. 8553, effective May 24, 1991)

SUBPART DP: BENEFIT WAGE CANCELLATIONS

Section 2770.501 Effective Date Of Benefit Wage Cancellations Pursuant To Section 1508.1 Of The Act

The provisions of Section 1508.1 of the Act shall apply only to benefit wages which result from the payment of benefits with respect to a benefit year which begins on or after January 1, 1987.

(Source: Amended at 12 Ill. Reg. 12473, effective July 15, 1988)

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Procedures for Collection of Review and Evaluation Services Costs

2) Code Citation: 35 Ill. Adm. Code 859

3) Section Numbers: Proposed Action:

859.101 Repeal
859.102 Repeal
859.103 Repeal
859.201 Repeal
859.202 Repeal
859.203 Repeal
859.204 Repeal
859.205 Repeal
859.301 Repeal
859.302 Repeal
859.303 Repeal

4) Statutory Authority: Implementing and authorized by Section 22.2(m)(6) of the Environmental Protection Act ("Act") [415 ILCS 5/22.2(m)(6)].

5) A Complete Description of the Subjects and Issues Involved: 35 Ill. Adm. Code 859 contains procedures detailing the review and evaluation services the Agency may agree to provide pursuant to Section 22.2(m) of the Environmental Protection Act [415 ILCS 5/22.2(m)]. Section 22.2(m) was repealed in 1995. As a result, Part 859 is now obsolete.

6) Will this proposed repealer replace an emergency repealer currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed repealer contain incorporation by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This proposed repealer does not create or enlarge a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed repealer may submit them in writing by no later than 45 days after publication of this notice to:

M. Kyle Rominger, Assistant Counsel
Division of Legal Counsel
Illinois Environmental Protection Agency

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED REPEALER

1021 North Grand Avenue East
P.O. Box 19276
Springfield IL 62794-9276

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: The proposed repealer will not affect small businesses, small municipalities or not for profit corporations because Part 859 is obsolete and no longer used.

B) Reporting, bookkeeping or other procedures required for compliance: No new reporting, bookkeeping or other procedures will be required as the result of the proposed repealer.

C) Types of professional skills necessary for compliance: No professional skills are required for compliance with the proposed repealer.

13) Regulatory Agenda on which this rulemaking was summarized: July 2000

The full text of the Proposed Repealer begins on the next page:

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED REPEALER

TITLE 35: ENVIRONMENTAL PROTECTION

SUBTITLE G: WASTE DISPOSAL

CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 859

PROCEDURES FOR COLLECTION OF REVIEW AND EVALUATION SERVICES COSTS
(REPEALED)

SUBPART A: GENERAL PROVISIONS

Section
859.101 Applicability
859.102 Severability
859.103 Definitions

SUBPART B: PROCEDURES FOR MAINTAINING RECORDS OF REVIEW AND EVALUATION SERVICES

Section
859.201 Submission of Requests
859.202 Conditions for Agreements
859.203 Recordkeeping of Services
859.204 Available Documentation
859.205 Available Review and Evaluation Services

SUBPART C: PROCEDURES FOR PAYMENT OF AGENCY COSTS

Section
859.301 Requests for payment
859.302 Submission of Payment
859.303 Manner of Payment

AUTHORITY: Implementing and authorized by Section 22.2(m)(6) of the Environmental Protection Act ("Act") (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 1022.2(m)(6)).

SOURCE: Adopted at 16 Ill. Reg. 6995, effective April 21, 1992; repealed at 24 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 859.101 Applicability

This Part applies where the Agency has agreed to provide review and evaluation services for actions at sites where hazardous substances or pesticides may be present under Section 22.2(m) of the Act (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 1022.2(m)).

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED REPEALER

Section 859.102 Severability

If any Section, subsection, sentence or clause of this Part shall be judged invalid, such adjudication shall not affect the validity of this Part as a whole or any Section, subsection, sentence, or clause thereof not judged invalid.

Section 859.103 Definitions

For the purposes of this Part, the terms below shall be defined as set forth in this Section. Terms not defined below shall have the meanings set forth in the Environmental Protection Act.

"Act" means the Environmental Protection Act (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 1001 et seq.).

"Agency" means the Illinois Environmental Protection Agency.

"Agency Travel Costs" means costs for payment of travel by individuals employed by the Agency in accordance with 80 Ill. Adm. Code Parts 2800 and 3000. Such costs include costs for lodging, meals, travel, automobile mileage, tolls, taxi fares, parking and miscellaneous items.

"Automobile Operating Costs" means costs associated with automobile leases. These costs do not include costs for fuel for Agency vehicles.

"Costs" means all costs incurred by the Agency.

"Indirect Costs" means those costs incurred by the Agency which cannot be attributed directly to a specific site, but are necessary to support the site specific activities and include such expenses as managerial and administrative services, building rent and maintenance, utilities, telephone, and office supplies.

"Laboratory Costs" means costs for services and materials associated with identifying, analyzing, and quantifying chemical compounds in samples at a laboratory.

"Other Contractual Costs" means costs for contractual services not otherwise specifically identified, including printing, blueprints, photography, film processing, computer services and overnight mail.

"Personnel Services Costs" means costs relative to the employment of individuals by the Agency. Such costs include hourly wages and fringe benefits.

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED REPEALER

"Personnel Services Costs Quarterly Report" means the report documenting time spent by the Agency personnel performing review and evaluation services at a site.

"Pre-Notice Site" means a site where a corrective action process is being undertaken for which the Agency has not issued a notice under Section 4(q) of the Act (Ill. Rev. Stat., 1989, ch. 111 1/2, par. 1004(q)) or a notice of other legal action under Section 22.2 of the Act (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 1022.2) relative to the release of hazardous substances or pesticides at or from a site. Identification of a site as a "pre-notice site" does not mean that the Agency has determined that a notice under Section 4(q) or a notice of other legal action under Section 22.2 will be issued.

"Professional and Artistic Services Contractual Costs" means costs of consultants and contractors used by the Agency to perform review and evaluation services.

"Response Action Contract" means a state response action contract entered into between the Agency and a contractor under the Responsive Action Contract Indemnity Act (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 7201 et seq.).

"Response Contractors Indemnification Fund" means the fund established under Section 5 of the Responsive Action Contract Indemnity Act (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 7205).

"Response Contractors Indemnification Fund Costs" means costs paid into the Response Contractors Indemnification Fund as a result of a response action contract entered into by the Agency.

"Supply Costs" means costs for Agency purchases of supply items used in field inspections and sampling, such as photographic film, tape, gloves, booties, and protective clothing.

"Voucher" means a document, on a form prescribed by the Agency, that reflects authorization of payment for costs incurred by the Agency from non-Agency providers.

"Vouchered Costs" means those costs documented on vouchers.

SUBPART B: PROCEDURES FOR MAINTAINING RECORDS OF REVIEW AND EVALUATION SERVICES

Section 859.201 Submission of Requests

Requests submitted to the Agency under this Part to provide review and evaluation services for actions at sites where hazardous substances or

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED REPEALER

pesticides may be present shall only be accepted for pre-notice sites. Requests must be submitted in writing to the Manager, Remedial Project Management Section, Division of Land Pollution Control, at the Agency by the owner or operator of the site or by another person with the written consent of the owner or operator. (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 1022.2(m))

Section 859.202 Conditions for Agreements

a) The Agency shall enter an agreement to provide, subject to available resources, review and evaluation services for removal and remedial actions at sites where hazardous substances or pesticides may be present only if:

- 1) the request is submitted in accordance with Section 859.201 of this Part;
- 2) the owner, operator or other person entering the agreement with the Agency agrees to:
 - A) submit a work plan for actions at the site;
 - B) allow for or otherwise arrange a site visit or other site evaluation by the Agency;
 - C) perform the work under the work plan as approved by the Agency; and
 - D) pay any reasonable costs, as provided in Section 859.204 of this Part, incurred and documented by the Agency in providing such services, within 30 days after receiving the billing statement;
- 3) The individual signing the agreement on behalf of the owner, operator or other person entering the agreement certifies that he or she has the authority to enter the agreement on behalf of the owner, operator or other person; and
- 4) The Agency receives in advance a partial payment for anticipated costs of Agency review and evaluation services. Such advance partial payment shall not exceed \$5,000 or one-half of the total anticipated costs of the Agency, whichever sum is less.

- b) After the agreement is signed by the owner or operator or other person, the original shall be sent to the project manager assigned by the Agency. A copy shall be sent to the Manager, Remedial Projects Accounting and Procurement Unit, or his designee. Upon acceptance of an agreement entered pursuant to this Part, the Agency shall notify in writing the person submitting the agreement of its acceptance.

- c) An agreement entered pursuant to this Part may be cancelled by providing written notification to the Agency. The written notification shall be effective 15 days after the Agency's receipt of the notification. Within 180 days after receipt of the notice, the Agency shall provide the owner or operator with a final invoice for services provided prior to the effective date of such notification (Ill. Rev. Stat. 1989, ch. 111 1/2, par. 1022.2(m)).

Section 859.203 Recordkeeping of Services

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED REPEALER

- a) Costs shall be tracked within the Agency by the use of a site specific code. Site specific codes shall be assigned at the request of the assigned project manager.
- b) All persons originating or processing vouchers associated with review and evaluation services for pre-notice sites shall code the voucher with the assigned site specific code.
- c) Each individual employed by the Agency performing review and evaluation services for a pre-notice site shall code his or her time to that site using the site code assigned. Personnel service costs shall be compiled from bi-monthly time and activity reports and reported on the Personal Services Quarterly Report.
- d) Contractors selected by the Agency to perform review and evaluation services under this Part shall be procured in accordance with the Illinois Purchasing Act (Ill. Rev. Stat. 1989, ch. 127, par. 132.1 et seq.).
- e) Following each calendar quarter, the Agency shall compile the personnel services costs and all voucherred costs associated with each pre-notice site.

Section 859.204 Available Documentation

The Agency shall make available to any person who has entered an agreement pursuant to Section 22.2(m) of the Act and this Part the following documentation with respect to costs of review and evaluation services related to the site for which the agreement was entered:

- a) Personnel Services Costs Quarterly Report;
- b) Vouchers for Agency Travel Costs;
- c) Vouchers for Automobile Operating Costs;
- d) Vouchers for Professional and Artistic Services Contractual Costs;
- e) Vouchers for Response Contractor Indemnification Fund Costs;
- f) Vouchers for Laboratory Costs;
- g) Vouchers for Supply Costs; and
- h) Vouchers for Other Contractual Costs.

Section 859.205 Available Review and Evaluation Services

The Agency may provide the following types of review and evaluation services with respect to pre-notice sites in response to requests under Section 22.2(m) of the Act and this Part:

- a) Review of investigation reports;
- b) Review of removal and remedial action proposals;
- c) Review of site health and safety plans;
- d) Inspections of the site;
- e) Collection and analysis of site samples;
- f) Assistance with community relations;
- g) Establishment of site cleanup objectives;
- h) Review of corrective action work at the site and evaluation as to whether the work has been performed in accordance with the Agency

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED REPEALER

- i) approved work plan; and
- j) Discussion with Agency employees, owners or operators, or other officials relative to any of the items in subsections (a) through (h) of this Section.

SUBPART C: PROCEDURES FOR PAYMENT OF AGENCY COSTS**Section 859.301 Requests for Payment**

- a) If an agreement is entered pursuant to Section 22.2(m) of the Act and this Part, the Agency shall request payment for costs incurred in providing the review and evaluation services with respect to the pre-notice site.
- b) Requests for payment shall be submitted no more frequently than quarterly. The request for payment shall compile by line item the costs incurred for the following categories:

- 1) Personnel Services Costs;
- 2) Agency Travel Costs;
- 3) Automobile Operating Costs;
- 4) Professional and Artistic Services Contractual Costs;
- 5) Laboratory Costs;
- 6) Response Contractors Indemnification Fund Costs;
- 7) Other Contractual Costs;
- 8) Supply Costs; and
- 9) Indirect Costs.

- c) The request for payment shall deduct any advance partial payment from the costs incurred. A request for payment shall not be sent until the advance payments have been depleted.

Section 859.302 Submission of Payment

Payments of costs incurred by the Agency for the performance of review and evaluation services pursuant to an agreement entered into in accordance with this Part shall be submitted to the Agency within 30 days after receipt of the billing statement, except for advance partial payments which shall be submitted in advance of or concurrent with entering an agreement under Section 859.202 of this Part.

Section 859.303 Manner of Payment

Payment shall be made by check or money order made payable to "Treasurer - State of Illinois, For Deposit to the Hazardous Waste Fund." The check or money order shall identify the site name and the federal employer identification number or social security number of the person entering into an agreement under Section 859.202 of this Part. Payment shall be mailed to the Agency at the following address:

Fiscal Services Section

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED REPEALER

Illinois Environmental Protection Agency
2200 Churchill Road
P.O. Box 19276
Springfield, Illinois 62794-9276

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: State Remedial Action Priorities List

2) Code Citation: 35 Ill. Adm. Code 860

3) Section Numbers: Proposed Action:
860.100 Repeal
860.110 Repeal
860.120 Repeal
860.130 Repeal
860.200 Repeal
860.210 Repeal
860.220 Repeal
860.300 Repeal

4) Statutory Authority: Sections 4 and 22.2(d) of the Environmental Protection Act [415 ILCS 5/4 and 22.2(d)].

5) A. Complete Description of the Subjects and Issues Involved: 35 Ill. Adm. Code 860 contains procedures for creating the State Remedial Action Priorities List (SRAPL), which was intended to serve as an informational tool for use by the Agency in identifying sites that appeared to present a significant risk to public health, welfare or the environment. This Part was declared void in States Land Improvement Corp. v. Environmental Protection Agency, 596 N.E.2d 1164, 173 Ill. Dec. 285 (4th Dist. 1992). As a result, it is obsolete and no longer used.

6) Will this proposed repealer replace an emergency repealer currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Does this proposed repealer contain incorporation by reference? No

9) Are there any other proposed repealers pending on this Part? No

10) Statement of Statewide Policy Objectives: This proposed repealer does not create or enlarge a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed repealer may submit them in writing by no later than 45 days after publication of this notice to:

M. Kyle Rominger, Assistant Counsel
Division of Legal Counsel
Illinois Environmental Protection Agency
1021 North Grand Avenue East

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED REPEALER

P.O. Box 19276
Springfield IL 62794-9276

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: The proposed repealer will not affect small businesses, small municipalities or not for profit corporations because Part 860 has been declared invalid and is no longer used.
- B) Reporting, bookkeeping or other procedures required for compliance: No new reporting, bookkeeping or other procedures will be required as the result of the proposed repealer.
- C) Types of professional skills necessary for compliance: No professional skills are required for compliance with the proposed repealer.

13) Regulatory Agenda on which this rulemaking was summarized: July 2000

The full text of the Proposed Repealer begins on the next page:

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED REPEALER

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER 11: ENVIRONMENTAL PROTECTION AGENCY

PART 860

STATE REMEDIAL ACTION PRIORITIES LIST (REPEALED)

SUBPART A: GENERAL

Section	Purpose
860.100	Application
860.110	Definitions
860.120	Publication of the State Remedial Action Priorities List
860.130	

SUBPART B: LISTING OF SITES

Section	Basis for Listing Sites on the State Remedial Action Priorities List
860.200	State Remedial Action Priorities List
860.210	Determining Priorities for Remedial Action Among Sites Listed on the State Remedial Action Priorities List
860.220	

SUBPART C: DELETION OF SITES

Section	Basis for Deleting Sites from the State Remedial Action Priorities List
860.300	

AUTHORITY: Implementing and authorized by Sections 4 and 22.2(d) of the Environmental Protection Act (Ill. Rev. Stat. 1987, ch. 111 1/2, pars. 1004 and 1022.2(d)) and 35 Ill. Adm. Code 750.440(d).

SOURCE: Adopted at 9 Ill. Reg. 12276, effective July 24, 1985; amended at 10 Ill. Reg. 4226, effective February 26, 1986; amended at 11 Ill. Reg. 12232, effective July 9, 1987; amended at 12 Ill. Reg. 16074, effective September 23, 1988; amended at 14 Ill. Reg. 5776, effective April 9, 1990; repealed at 24 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 860.100 Purpose

- a) The purpose of the State Remedial Action Priorities List (SRAPL) is primarily to serve as an informational tool for use by the Agency in identifying sites that appear to present a significant risk to public health, welfare or the environment.
- b) The initial identification of a site on a SRAPL is intended primarily

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED REPEALER

to guide the Agency in determining which sites warrant further investigations designed to assess the nature and extent of the public health and environmental risks associated with the site and determine what State-financed remedial action, if any, may be appropriate.

c) Inclusion of a site on the SRAPL does not establish that the Agency necessarily will undertake remedial action at the site.

d) The listing of a site on the SRAPL does not require any action of any private party, nor does it determine the liability of any party for the cost of the clean-up of the site.

e) A site need not be on the SRAPL to be the subject of a State-financed removal action. Except for State-financed remedial action undertaken pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (P.L. 96-510), as amended (CERCLA), a site shall be on the SRAPL to be the subject of a State-financed remedial action.

Section 860.110 Application

The SRAPL is adopted pursuant to 35 Ill. Adm. Code 750.440(d) and is applicable to remedial action taken at sites which are not the subject of State or federal remedial action under CERCLA.

Section 860.120 Definitions

Unless otherwise stated or unless the context clearly indicates a different meaning, the definitions of terms used in this Part are the same as those found in 35 Ill. Adm. Code 750.105.

Section 860.130 Publication of the State Remedial Action Priorities List

The Agency shall publish, and if necessary revise, the SRAPL in the Illinois Register at least once annually as an amendment to this Part.

SUBPART B: LISTING OF SITES

Section 860.200 Basis for Listing Sites on the State Remedial Action Priorities List

a) Commencing on June 1, 1987, the Agency shall consider the factors set forth in Section 860.220(b)(1) through Section 860.220(b)(5) in determining which new sites to list on the SRAPL. Sites listed on the SRAPL prior to June 1, 1987, shall remain on the list and shall not be subject to the factors for listing new sites set forth in Section 860.220(b)(1) through Section 860.220(b)(5).

b) The Agency shall not list a site on the SRAPL:

1) If the site scores less than 10.0 using the Federal Hazard Ranking System (HRS) (40 CFR 300, Appendix A), as such rule existed on June 1, 1987, and does not include any later

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED REPEALER

amendments):

2) If the site is listed on the National Priorities List (NPL) (40 CFR 300, Appendix B, as such rule existed on June 1, 1987, and does not include any later amendments); or

3) If the Agency determines through site evaluation, that there is no release or substantial threat of a release into the environment of any hazardous substance, or any pollutant or contaminant which may present an imminent or substantial danger to public health or welfare.

Section 860.210 State Remedial Action Priorities List

GROUP 1

Site Name	City	County
Brockman No. 1	Ottawa	LaSalle
Koppers Co.	Carbondale	Jackson
Hopkins Chemical Co.	Atlanta	Logan
Modern Plating	Freeport	Stephenson
St. Louis Army Supply Center	Granite City	Madison
Sauget Sites	Cahokia/Sauget	St. Clair
H & L Landfill #1	Danville	Vermillion
Sherex Chemical	Mapleton	Peoria
Carpentersville Waste Site	Carpentersville	Kane
Thomas 12th Street Landfill	Danville	Vermillion
Quincy Municipal Landfill #2 & #3	Quincy	Adams
Steagall Landfill	Galesburg	Knox

GROUP 2

Site Name	City	County
Prinks Industrial Waste	Pecatonica	Winnebago
Escaat	Addison	DuPage
Stauffer Chemical	Chicago Heights	Cook
Moss American	Sauget	St. Clair

GROUP 3

Site Name	City	County
Behn Drum	Marengo	McHenry

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED REPEALER

Bennett Landfill	Rockdale	Will
C.B. Hale Septic Cleaning	Wilmington	Cook
J.J. Schultz Containers	Lemont	Cook
Lanson Chemical Division	E. St. Louis	St. Clair
Morrison City Dump	Morrison	Whiteside
Sexton Hinsdale Landfill	Westchester	Cook
Smith - Douglass, Inc.	S. Streator	Livingston
South Central Terminal	Pana	Christian
Triem Steel & Processing	Chicago Heights	Cook

GROUP 4

Site Name	City	County
REMEDIATED RELEASES GROUP		
FWC Corp. Ag Chemicals	Wyoming	Stark
Hub Oil Company	Rochelle	Ogle
M.I.G. Investments	Belvidere	Boone
Sand Park	Loves Park	Winnebago
States Land Improvement #1	Ottawa	LaSalle
Stoney Park West	Palos Hills	Cook
Waukegan Muni #2	Waukegan	Lake
Custom Can Crusher	Deland	Piatt

REMEDIATED RELEASES GROUP

Site Name	City	County
Taylorville Landfill	Taylorville	Christian
U.S. Drum	Chicago	Cook
Firestone Tire	Quincy	Adams

(AGENCY NOTE: The placement of a site in a particular "Group" in no way represents the order in which the Agency may undertake remedial action at the site in relation to other sites on the SRAPL. Remedial action has been undertaken at sites placed in the Remediated Releases Group; however, further remedial action may be necessary at such sites.)

Section 860.220 Determining Priorities for Remedial Action Among Sites Listed

ENVIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED REPEALER

on the State Remedial Action Priorities List

- a) The Agency shall determine the order in which sites listed on the SRAPL shall be the subject of State-financed remedial action.
- b) The Agency shall consider the following factors in determining the order in which sites listed on the SRAPL shall be the subject of State-financed remedial action:
 - 1) The HRS scores and the information collected to develop such scores;
 - 2) Other studies and information relating to the sites, including but not limited to field inspection reports, monitoring data, permit application materials and research reports;
 - 3) The type of remedial action required and the availability of funds to undertake such remedial action;
 - 4) The relative risks to public health, welfare or the environment posed by the sites; or
 - 5) Other factors relating to the sites, including but not limited to whether responsible parties are willing to voluntarily undertake remedial action, the availability of State resources to manage remedial action, pending enforcement actions, or the applicability of other regulatory requirements to the site.
- c) The Agency shall determine the type and extent of any remedial action in accordance with 35 Ill. Adm. Code 750: Subpart D.
- d) The Agency shall not undertake any response action at a site listed on the SRAPL if the Agency determines, through site evaluation, that there is no release or substantial threat of a release into the environment of any hazardous substance, or any pollutant or contaminant which may present an imminent or substantial danger to public health or welfare.

SUBPART C: DELETION OF SITES

Section 860.300 Basis for Deleting Sites from the State Remedial Action Priorities List

The Agency shall delete a site from the SRAPL if the Agency determines, through site evaluation, that there is no release or substantial threat of a release into the environment of any hazardous substance, or any pollutant or contaminant which may present an imminent or substantial danger to public health or welfare.

HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) **Heading of the Part:** Health Facilities Planning Procedural Rules
- 2) **Code Citation:** 77 Ill. Adm. Code 1130
- 3) **Section Number:** Proposed Action:
1130.910 New Section
- 4) **Statutory Authority:** Illinois Health Facilities Planning Act [20 ILCS 3960]
- 5) **A Complete Description of the Subjects and Issues Involved:** A new Section is proposed to Part 1130 to incorporate amendments required by the passage of Public Act 91-782 [20 ILCS 3960/4.2]. This new requirement necessitates the State Board to adopt rules regarding ex parte communication. Specifically, this proposal will provide definitions, procedures for handling these communications, and methods for technical assistance.
- 6) **Will this rulemaking replace any emergency rulemaking currently in effect?**
No
- 7) **Does this rulemaking contain an automatic repeal date?** No
- 8) **Does this rulemaking contain incorporations by reference?** No
- 9) **Are there any other proposed rulemakings pending on this Part?** Yes

Section Numbers	Proposed Action	Illinois Register Citation
1130.410	Amendment	24 Ill. Reg. 7091, May 12, 2000
1130.510	Amendment	24 Ill. Reg. 7091, May 12, 2000
1130.520	Amendment	24 Ill. Reg. 7091, May 12, 2000
1130.541	Amendment	24 Ill. Reg. 7091, May 12, 2000
1130.542	Amendment	24 Ill. Reg. 7091, May 12, 2000
1130.543	Amendment	24 Ill. Reg. 7091, May 12, 2000
1130.544	Amendment	24 Ill. Reg. 7091, May 12, 2000
1130.545	Amendment	24 Ill. Reg. 7091, May 12, 2000
1130.546	Amendment	24 Ill. Reg. 7091, May 12, 2000
1130.547	Amendment	24 Ill. Reg. 7091, May 12, 2000
1130.548	Amendment	24 Ill. Reg. 7091, May 12, 2000
1130.549	Amendment	24 Ill. Reg. 7091, May 12, 2000
1130.550	Amendment	24 Ill. Reg. 7091, May 12, 2000
1130.560	Amendment	24 Ill. Reg. 7091, May 12, 2000
1130.570	Amendment	24 Ill. Reg. 7091, May 12, 2000

- 10) **Statement of Statewide Policy Objectives:** The overall purpose of the Health Facilities Planning Act is to contain health care costs by preventing unnecessary construction or modification of health care facilities and to improve the "ability of the public to obtain necessary

HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED AMENDMENTS

health services" and "establish an orderly and comprehensive health care delivery system that will guarantee the availability of quality health care to the general public." In June of this year, the Act was amended to include provisions on ex parte communication. With the adoption of this directive, the State Board proposes rulemaking to encompass this requirement.

- 11) **Time, Place and Manner in which interested persons may comment on this proposed rulemaking:** Interested persons may present their comments concerning this rulemaking by writing within 45 days after this issue of the *Illinois Register* to:

Donald Jones
Illinois Health Facilities Planning Board
Illinois Department of Public Health
Division of Facilities Development
525 West Jefferson Street, Second Floor
Springfield, Illinois 62761-0001
(217) 782-3516
(217) 785-4308 (fax)
800-547-0466 (TTY - for hearing impaired only)
E-mail: djones@dhph.state.il.us

All written comments received within 45 days of this issue of the *Illinois Register* will be considered.

A public hearing will be held on Wednesday, October 4, 2000, at 1:30 p.m. at Juner's Castle Lodge, 117 North Western Avenue, Peoria, Illinois. The hearing will be for the sole purpose of gathering public comment on the proposed amendments. Persons interested in presenting testimony at this hearing are advised that the State Board will follow these procedures in the conduct of the hearing:

- 1) Each person presenting oral testimony is requested to provide to the State Board a written (preferably typed) copy of such testimony at the time the oral testimony is presented.
- 2) No person will be recognized to speak for a second time until all persons wishing to testify have done so. The State Board may limit the time the hearing is open and limit the time of individual testimony based upon the number of persons wishing to testify. All testimony shall conclude at the specified time except that an individual in the midst of presenting testimony shall be allowed to complete his/her testimony.
- 3) In order to provide for a balanced presentation of views and to facilitate the orderly conduct of the hearing, the State Board may

HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED AMENDMENTS

impose such other rules of procedure, including the order of call of witnesses, as necessary.

This rulemaking may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present its comments in writing to Donald Jones at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on this rulemaking shall indicate its status as such, in writing, in its comments.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Health care facilities that meet the definition of small business or not for profit corporation.

B) Reporting, bookkeeping or other procedures required for compliance:

None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: it was not anticipated.

The full text of the Proposed Amendments begins on the next page:

HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER II: HEALTH FACILITIES
PLANNING BOARD

SUBCHAPTER b: OTHER BOARD RULES

PART 1130

HEALTH FACILITIES PLANNING PROCEDURAL RULES

SUBPART A: AUTHORITY, PURPOSE AND DEFINITIONS

Section	Statutory Authority/Applicability
1130.110	Public Hearings
1130.120	Purpose
1130.130	Definitions
1130.140	Definitions
1130.150	Incorporated Materials

SUBPART B: WHO IS SUBJECT TO THE HEALTH FACILITIES PLANNING ACT

Section	Persons Subject to the Act
1130.210	Necessary Parties to the Application for Permit or Exemption
1130.220	

SUBPART C: TRANSACTIONS SUBJECT TO REVIEW

Section	Transactions Subject to Review
1130.310	

SUBPART D: TRANSACTIONS WHICH ARE EXEMPT FROM REVIEW

Section	Transactions Which Are Exempt from Review
1130.410	

SUBPART E: PROCEDURAL REQUIREMENTS FOR EXEMPTIONS

Section	Requirements for Exemptions Involving the Acquisition of Major Medical Equipment
1130.510	
Section	Requirements for Exemptions Involving the Change in Ownership of a Health Care Facility
1130.520	
Section	Requirements for Exemptions Involving Health Maintenance Organizations (Repealed)
1130.530	
Section	Requirements for Exemptions Involving Discontinuation of Services
1130.540	
Section	Requirements for Exemptions for Combined Facility Licensure
1130.541	
Section	Requirements for Exemptions for Temporary Use of Beds for Demonstration Programs
1130.542	
Section	Requirements for Exemption for Equipment to be Acquired By or on Behalf of a Health Care Facility
1130.543	

HEALTH FACILITIES PLANNING BOARD
NOTICE OF PROPOSED AMENDMENTS

1130.544 Requirements for Exemption for the Addition of Dialysis Stations
1130.550 Agency Processing of an Application for Exemption
1130.560 State Board Action
1130.570 Validity of an Exemption

SUBPART F: PROCEDURAL REQUIREMENTS FOR THE REVIEW AND PROCESSING OF APPLICATIONS FOR PERMIT

Section
1130.610 Duration of the Review Period and Time Frames
1130.620 Consultation, Classification, Completeness Review, and Review Procedures
1130.630 Agency Actions During the Review Period
1130.640 Extension of the Review Period Prior to Initial State Board Action
1130.650 Modification of an Application
1130.660 Approval of an Application
1130.670 Notice of Intent-to-Deny an Application
1130.680 Denial of an Application

SUBPART G: PERMIT VALIDITY, REPORTING REQUIREMENTS AND REVOCATION

Section
1130.710 Validity of Permits
1130.720 Obligation
1130.730 Extension of the Obligation Period
1130.740 Renewal of a Permit
1130.750 Alteration of a Project for which a Permit Has Been Issued
1130.760 Annual Progress Reports
1130.770 Project Completion, Final Realized Costs and Cost Overruns
1130.780 Revocation of a Permit
1130.790 Penalties, Fines and Sanctions Mandated in the Illinois Health Facilities Planning Act for Non-compliance with the Act and the State Board's Rules

SUBPART H: DECLARATORY RULINGS

Section
1130.810

Declaratory Rulings

SUBPART I: EX PARTE AND EXTRA RECORD COMMUNICATIONS

EX Parte Communication and Extra Record Communication

APPENDIX A Annual Inflation Adjustments to Review Thresholds

AUTHORITY: Implementing and authorized by the Illinois Health Facilities Planning Act [20 ILCS 3960].

HEALTH FACILITIES PLANNING BOARD
NOTICE OF PROPOSED AMENDMENTS

SOURCE: Adopted at 14 Ill. Reg. 7182, effective May 1, 1990; emergency amendment at 15 Ill. Reg. 4787, effective March 18, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 9731, effective June 17, 1991; emergency amendments at 16 Ill. Reg. 13153, effective August 4, 1991, for a maximum of 150 days; emergency expired January 1, 1993; amended at 17 Ill. Reg. 4448, effective March 24, 1993; amended at 17 Ill. Reg. 5882, effective March 26, 1993; amended at 19 Ill. Reg. 2972, effective March 1, 1995; expedited correction at 21 Ill. Reg. 3753, effective March 1, 1995; recodified at 20 Ill. Reg. 2597; emergency amendment at 21 Ill. Reg. 12671, effective September 2, 1997, for a maximum of 150 days; emergency expired January 30, 1999; amended at 23 Ill. Reg. 2911, effective March 15, 1999; emergency amendment at 23 Ill. Reg. 3835, effective March 15, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 7752, effective July 9, 1999; amended at 24 Ill. Reg. 6013, effective April 7, 2000; amended at 24 Ill. Reg. _____, effective _____.

SUBPART I: EX PARTE AND EXTRA RECORD COMMUNICATIONS

Section 1130.910 Ex Parte Communication and Extra Record Communication

- a) After an application for permit or exemption is received by the State Board, no person shall attempt to engage in ex parte or extra record communication with the State Board, any State Board member, employee or hearing officer in connection with the substance of any application for permit or exemption until the project is completed.
- b) An ex parte (or extra record) communication received by the State Board, any State Board member, employee, or a hearing officer shall be made a part of the record of the pending matter, including all written communications, all written responses to the communications, and a memorandum stating the substance of all oral communications and all responses made and the identity of each person from whom the ex parte communication was received. [20 ILCS 3960/4.2(1)]
- c) Any ex parte or extra record communication shall not be considered by the State Board, any State Board member or employee, nor form the basis for any decision, finding of fact or order.
- d) "Ex parte communication" or "extra record communication" means a communication between a person who is not a State Board member or employee and State Board member or employee that reflects on the substance of a pending State Board proceeding and that takes place outside the record of the proceeding. Communications regarding matters of procedure and practice, such as the format of pleading, number of copies required, manner of service, and status of proceedings, are not considered ex parte or extra record communications. Technical assistance with respect to an application, not intended to influence any decision on the application, may be provided by employees to the applicant. Any assistance shall be documented in writing by the applicant and employees within 10 business days after the assistance is provided. [20 ILCS 3960/4.2(d)]

HEALTH FACILITIES PLANNING BOARD
NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Practice and Procedure in Administrative Hearings
- 2) Code Citation: 77 Ill. Adm. Code 1180
- 3) Section Number: Proposed Action:
1180.115 New Section
- 4) Statutory Authority: 20 ILCS 3960, Illinois Health Facilities Planning Act
- 5) A Complete Description of the Subjects and Issues Involved: A new Section is proposed to Part 1180 to incorporate amendments required by the passage of Public Act 91-782 [20 ILCS 3960/4.2]. This new requirement necessitates the State Board to adopt rules regarding ex parte communication. This proposal will provide clarification regarding these communications in relation to administrative hearings.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: The overall purpose of the Health Facilities Planning Act is to contain health care costs by preventing unnecessary construction or modification of health care facilities and to improve the "ability of the public to obtain necessary health services" and "establish an orderly and comprehensive health care delivery system which will guarantee the availability of quality health care to the general public." In June of this year, the Act was amended to include provisions relating to ex parte communication. With the adoption of this directive, the State Board proposes rulemaking to encompass this requirement.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking by writing within 45 days after this issue of the *Illinois Register* to:

Donald Jones
Illinois Health Facilities Planning Board
Illinois Department of Public Health
Division of Facilities Development
525 West Jefferson Street, Second Floor
Springfield, Illinois 62761-0001
(217) 782-3516

HEALTH FACILITIES PLANNING BOARD
NOTICE OF PROPOSED AMENDMENTS

- e) Written communications made by applicants, persons, parties, or their representatives shall not be considered ex parte or extra record if made in accordance with the procedures authorized by Parts 1130, 1140 and 1180 of the State Board rules.
 - f) Written communications made by Agency staff in connection with project response to inquiries made by State Board questions or requests for review, to Agency reports, to State Board questions or requests for information, or as otherwise authorized by State Board rules shall be made part of the record and are not considered prohibited communications. All other communications by applicants or permit holders are prohibited communications, except for requests for information pertaining to procedure or to the status of a pending application or permit.
 - g) Any communication, written or oral, received from a member of the public, news media, interested persons, legislative members, or other persons regarding any matter other than the status of an application that is not authorized by the public comment process specified in Part 1140 of the State Board rules is ex parte or extra record communication and is prohibited.
 - h) Any person may request consultation or technical assistance regarding a proposed project prior to the filing of an application for permit or exemption. Written questions pertaining to procedure or status, which do not concern the applicability of any rule or the merits or substance of a pending application, may be submitted at any time during the review process.
 - i) For purposes of this Section, "employee" means a person the State Board of the Agency employs on a full-time, part-time, contract, or intern basis. [20 ILCS 3960/4.2(e)]
- (Source: Added at 24 Ill. Reg. _____, effective _____)

HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED AMENDMENTS

(217) 785-4308 (fax)

800-547-0466 (TTY - for hearing impaired only)

E-mail: djones@dhph.state.il.us

All written comments received within 45 days of this issue of the *Illinois Register* will be considered.

A public hearing will be held on Wednesday, October 4, 2000, at 1:30 p.m. at Jumer's Castle Lodge, 117 North Western Avenue, Peoria, Illinois. The hearing will be for the sole purpose of gathering public comment on the proposed amendments. Persons interested in presenting testimony at this hearing are advised that the State Board will follow these procedures in the conduct of the hearing:

- 1) Each person presenting oral testimony is requested to provide to the State Board a written (preferably typed) copy of such testimony at the time the oral testimony is presented.
 - 2) No person will be recognized to speak for a second time until all persons wishing to testify have done so. The State Board may limit the time the hearing is open and limit the time of individual testimony based upon the number of persons wishing to testify. All testimony shall conclude at the specified time except that an individual in the midst of presenting testimony shall be allowed to complete his/her testimony.
 - 3) In order to provide for a balanced presentation of views and to facilitate the orderly conduct of the hearing, the State Board may impose such other rules of procedure, including the order of call of witnesses, as necessary.
- This rulemaking may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present its comments in writing to Donald Jones at the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on this rulemaking shall indicate its status as such, in writing, in its comments.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Health care facilities that meet the definition of small business or not for profit corporation.
- B) Reporting, bookkeeping or other procedures required for compliance: None

HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED AMENDMENTS

C) Types of professional skills necessary for compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking did not appear in either of the two most recent Regulatory Agendas because: it was not anticipated.

The full text of the Proposed Amendments begins on the next page:

HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER II: HEALTH FACILITIES
PLANNING BOARD
SUBCHAPTER b: OTHER BOARD RULES

PART 1180

PRACTICE AND PROCEDURE IN ADMINISTRATIVE HEARINGS

Section	The Right to an Administrative Hearing: Rules Applicable to Such
1180.10	Hearings
1180.20	Definitions
1180.30	Waiver of Hearing
1180.40	Parties to Hearings
1180.50	Appearance - Right to Counsel
1180.60	Intervention
1180.70	Pleadings
1180.80	Amendments to Pleadings
1180.90	Motions
1180.95	Disqualification of Hearing Officer
1180.100	Form of Papers
1180.115	Ex Parte Communication
1180.116	Service
1180.120	Conduct of Hearings
1180.130	Subpoenas
1180.140	Hearing Officer's Report and Final Decision
1180.150	Proposal for Decision
1180.160	Final Decision
1180.170	Records of Proceedings
1180.180	Miscellaneous
1180.190	Number of Copies of Pleadings to be Filed
1180.200	Applicability

AUTHORITY: Implementing Section 5-10(a)(1) and Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100] and implementing Sections 10 and 11 and authorized by Section 12 of the Illinois Health Facilities Planning Act (20 ILCS 3960).

SOURCE: Filed December 19, 1975; rules repealed, new rules adopted by emergency action at 2 Ill. Reg. 51, p. 176, effective December 12, 1978, for a maximum of 150 days; adopted at 3 Ill. Reg. 12, p. 181, effective March 23, 1979; emergency amendment at 6 Ill. Reg. 6902, effective May 20, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11595, effective September 9, 1982; codified at 8 Ill. Reg. 15482; recodified at 20 Ill. Reg. 2599; amended at 21 Ill. Reg. 13176, effective September 19, 1997; amended at 24 Ill. Reg. _____, effective _____.

Section 1180.115. Ex Parte Communication

HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED AMENDMENTS

- a) After a hearing has been scheduled by the State Board, State Board members, employees and hearing officers shall not communicate directly or indirectly with:
- 1) Any party to the proceeding on any issue in the proceeding; or
 - 2) A party's representative on any issue in the proceeding; or
 - 3) Any other person concerning an issue of fact in the proceeding, without notice and opportunity for all parties to participate.
- b) A State Board member or employee may communicate with other members of employees and any State Board member or hearing officer may have the aid and advice of one or more personal assistants. [20 ILCS 3960/4.2(b)]
- c) A prohibited or ex parte communication received by the State Board, any State Board member, employee, or a hearing officer shall be made a part of the record of the pending matter including all written communications, all written responses to the communications, and a memorandum stating the substance of all oral communications, and all responses made and the identity of each person from whom the ex parte communication was received. [20 ILCS 3960/4.2(c)]
- d) The material specified in subsection (c) shall be disclosed to the parties of record by:
- 1) Service on the parties at the next hearing; or
 - 2) If no hearing is scheduled within the next seven days, service by mail on all parties of record.
- e) An ex parte communication that has not met the requirements of subsection (d) of this Section shall not be considered by the State Board, any State Board member, employee, or a hearing officer, nor form the basis for any decision, finding of fact or order.
- f) For purposes of this Section, "employee" means a person the State Board or the Agency employs on a full-time, part-time, contract, or intern basis. [20 ILCS 3960/4.2(e)]
- g) The State Board, State Board member, or hearing examiner presiding over the proceeding in the event of a violation of this Section, must take whatever action is necessary to ensure that the violation does not prejudice any party or adversely affect the fairness of the proceedings. [20 ILCS 3960/4.2(f)]
- h) Nothing in this section shall be construed to prevent the State Board or any member of the State Board or any employee from consulting with the attorney for the State Board. [20 ILCS 3960/4.2(g)]

(Source: Added at 24 Ill. Reg. _____, effective _____.)

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Affordable Housing Program
- 2) Code Citation: 47 Ill. Adm. Code 360
- 3) Section Numbers: Proposed Action:
360.604 Amendment
- 4) Statutory Authority: Sections 7.24(g), 7.19 and 7.25 of the Illinois Housing Development Act [20 ILCS 3605/7.24(g), 7.19 and 7.25].
- 5) A Complete Description of the Subjects and Issues Involved: This Part changes the existing rule to comply with the Department of Housing and Urban Development's requirements.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect?
Yes
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? Yes. These same rules are simultaneously being proposed on an emergency basis.
- 10) Statement of Statewide Policy Objectives: This proposed amendment will comply with the Department of Housing and Urban Development's requirements.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested parties may submit comments, data, views or arguments concerning this rulemaking in writing to:

Lori Silver, Esq.
401 N. Michigan Ave., Suite 900
Chicago, Illinois 60611
312/836-7341

The Authority will consider all written comments received at the above address within 45 days of the date of publication of this notice.

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: The proposed amendment will have a favorable impact on small to midsize real estate developers and contractors.
- B) Reporting, bookkeeping or other procedures required for compliance:
No new requirements.

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF PROPOSED AMENDMENTS

- C) Types of professional skills necessary for compliance: No new professional skills needed.
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: It was not anticipated.

The full text of the Proposed Amendments is identical to the text of the Emergency Amendments beginning on page 1406 of this issue of the Illinois Register:

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED REPEALER

1) Heading of the Part: Retrospective Compensation Agreements2) Code Citation: 50 Ill. Adm. Code 9223) Section Numbers: Proposed Action:

922.10	Repeal
922.20	Repeal
922.30	Repeal
922.40	Repeal
922.50	Repeal
922.60	Repeal

4) Statutory Authority: Implementing Section 141.1 and authorized by Section 40(a) of the Illinois Insurance Code [215 ILCS 5/141.1 and 401(a)].5) A Complete Description of the Subjects and Issues Involved: Section 141a of the Illinois Insurance Code [215 ILCS 5/141a] addresses the requirements for filing retrospective compensation agreements and Section 141 [215 ILCS 5/141] sets the standards for their approval. The rule adds nothing to the requirements and standards contained in these statutes; therefore, the Department is repealing the rule.6) Will this proposed repealer replace an emergency rule currently in effect?
No7) Does this repealer contain an automatic repeal date? No8) Does this proposed repealer contain incorporations by reference? No9) Are there any other proposed repealers pending on this Part? No10) Statement of Statewide Policy Objectives: This rule will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Cindy Stephenson	Susan Anders
Staff Attorney	Paralegal
Department of Insurance	Department of Insurance
320 West Washington	320 West Washington
Springfield, Illinois	Springfield, Illinois
(217) 782-1785	(217) 785-8220
62767-0001	62767-0001

12) Initial Regulatory Flexibility Analysis:

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED REPEALER

A) Types of small businesses, small municipalities and not for profit corporations affected: NoneB) Reporting, bookkeeping or other procedures required for compliance: NoneC) Types of professional skills necessary for compliance: None13) Regulatory Agenda on which this rulemaking was summarized: January 2000

The full text of the Proposed Repealer begins on the next page:

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED REPEALER

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER 1: PROVISIONS APPLICABLE TO ALL COMPANIES

PART 922

RETROSPECTIVE COMPENSATION AGREEMENTS (REPEALED)

Section	
922.10	Authority
922.20	Retrospective Compensation Agreements
922.30	Retrospective Compensation Agreements - Defined
922.40	Applicability
922.50	Filing
922.60	Effective Date

AUTHORITY: Implementing Section 141.1 and authorized by Section 401(a) of the Illinois Insurance Code (Ill. Rev. Stat. 1981, ch. 73, pars. 753.1 and 1013).

SOURCE: Filed May 19, 1972, effective June 1, 1972; codified at 7 Ill. Reg. 270; repealed at 24 Ill. Reg. _____, effective _____.

Section 922.10 Authority

This Part is promulgated by the Director of Insurance under subsection (a) of Section 401 of the Illinois Insurance Code which empowers the Director "...to make reasonable rules and regulations as may be necessary for making effective ..." the insurance laws of this State. It is the purpose of this Part to implement Section 141.1 of the Illinois Insurance Code by clarification relative to the filing of retrospective compensation agreements.

Section 922.20 Retrospective Compensation Agreements

Retrospective Compensation Agreements are included under Section 141.1 of the Illinois Insurance Code and are required to be filed.

Section 922.30 Retrospective Compensation Agreements - Defined

As used in this Part "retrospective compensation agreement" means any such arrangement, agreement or contract having as its purpose the actual or constructive retention by the insurer of a fixed proportion of the gross premiums, with the balance of the premiums, retained actually or constructively by the agent or the producer of the business, who assumes to pay therefrom all losses, all subordinate commissions, loss adjustment expenses and his profit, if any, with other provisions of such arrangement, agreement, or contract auxiliary or incidental to such purpose.

Section 922.40 Applicability

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED REPEALER

The Part shall apply only to business written under Classes (2) and (3) of Section 4 of the Illinois Insurance Code.

Section 922.50 Filing

All Retrospective Compensation Agreements which have not been filed with the Department of Insurance and approved by the Director prior to the effective date of this Part must be filed with the Department of Insurance within 30 days following the effective date of this Part.

Section 922.60 Effective Date

This Part shall become effective on June 1, 1972.

DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED AMENDMENTS

Publication of this Notice to:

James C. Rundblom Denise Hamilton
Staff Attorney Rules Unit Supervisor
Department of Insurance Department of Insurance
320 West Washington 320 West Washington
Springfield, Illinois 62767-0001 Springfield, Illinois 62767-0001
(217) 785-8559 (217) 785-8560

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: No small businesses, small municipalities and not for profit corporations will be affected by these proposed amendments.
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent agendas because: the Department did not anticipate the need to amend this rule during the two previous regulatory agenda periods.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Variable Contract Rule

- 2) Code Citation: 50 Ill. Adm. Code 1451

- 3) Section Numbers: Proposed Action:
1451.20 Amendment
1451.30 Amendment
1451.40 Amendment
1451.50 Amendment
1451.60 Amendment
1451.80 Amendment
1451.90 Amendment
1451.100 Amendment

- 4) Statutory Authority: Implementing Section 245.21 and authorized by Sections 401 and 245.24 of the Illinois Insurance Code [215 ILCS 5/245.21, 245.24 and 401].

- 5) A Complete Description of the Subjects and Issues Involved: Part 1451.50(b) requires insurers to file with the Department the effective prospectus which is applicable to variable contracts issued in Illinois. Historically, the Department has never found reason to refer to these prospectuses and so to save the time and the cost to microfilm and store these prospectuses, the Department is eliminating the requirement that insurers file prospectuses applicable to variable contracts issued in Illinois. Additionally Section 1451.50(d) will be added requiring insurers to notify the Department of the effective date and file number that the Securities and Exchange Commission has assigned the applicable variable contract before the Department can approve such contract. These amendments will also more accurately reflect the Department's examination requirements for obtaining a variable contract producer's license.

- 6) Will this proposed amendment replace an emergency rulemaking currently in effect? No

- 7) Does this amendment contain an automatic repeal date? No

- 8) Does this proposed amendment contain incorporations by reference? No

- 9) Are there any other proposed amendments pending on this Part? No

- 10) Statement of Statewide Policy Objectives: This rule will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

TITLE 50: INSURANCE
CHAPTER 1: DEPARTMENT OF INSURANCE
SUBCHAPTER 1: SEPARATE ACCOUNTS

PART 1451
VARIABLE CONTRACTS CONTRACT-RUBB

Section	Authority
1451.10	Definitions
1451.20	Qualification of Insurance Companies to Issue Variable Contracts
1451.30	Separate Accounts
1451.40	Filing of Contracts
1451.50	Contracts Providing for Variable Benefits
1451.60	Required Reports
1451.70	Foreign or Alien Companies
1451.80	Licensing of Producers for Variable Contracts
1451.90	Disclosure
1451.100	Examination-of-Agents

APPENDIX A Variable Annuities Only

AUTHORITY: Implementing Article XIV 1/2 of the Illinois Insurance Code [215 ILCS 5/Art. XIV 1/2] and authorized by Sections 401 and 245.24 of the Illinois Insurance Code [215 ILCS 5/401 and 245.24].

SOURCE: Filed February 18, 1972, effective March 1, 1972; codified at 7 Ill. Reg. 4217; amended at 24 Ill. Reg. _____, effective _____.

Section 1451.20 Definitions

Code means the Illinois Insurance Code including any of the Acts in Chapter 215 of the Illinois Compiled Statutes.

"Agent;"--when-used-in-this-Party; shall-mean-any-person; partnership; association; or corporation which under the Illinois Insurance Code is licensed-as-a-life-insurance-agent; broker-or-solicitor;--The-term "agent;"--also--includes--any--person; partnership; association;--or corporation--who--or--when--represents--a--fraternal-benefit-company operating-on-a-legal-reserve-basis; and--who--of--which--solicitor negotiates--or--effects--for--or-on-behalf--of--any-such-company; policies or contracts--for--insurance--covering--risks--in--this-State;

"Company;"--when-used-in-this-Party; shall-mean-a stock or mutual legal reserve life insurance company or a fraternal benefit company that which operates on a legal reserve basis. It does not include an assessment legal reserve company, or any other company as that term is defined in subsection (e) of Section 2 of the Illinois Insurance Code

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

[215 ILCS 5/2(e)] {###-Rev-Stat-1981; ch-73; par-614(e)}.

1983 Table "a" means the mortality table developed by the Society of Actuaries Committee to Recommend a New Mortality Basis for Individual Annuity Valuation and adopted as a recognized mortality table for annuities in June 1982 by the National Association of Insurance Commissioners.

Producer shall mean any person who is licensed as a life insurance producer under the Illinois Insurance Code. The term producer also includes any person who represents a fraternal benefit company operating on a legal reserve basis, and who solicits, negotiates or effects, for or on behalf of any such company, policies or contracts for insurance covering risks in this State.

Securities Examination shall mean proof of passing either of the NASD Series 6 or 7 Qualification Examinations or any superseding NASD examination that grants a person authority to sell variable contracts.

"Securities--examination;"--as--used--in--Section-1451;99(c); and--(e)--of--this-Part; shall-mean--any--one--of--the--following--examinations:

Any-State-Securities-Sales-Examination--accepted-by-the-Securities and-Exchange-Commission;
The-National-Association-of-Securities-Dealers-inc.-Examination for--Principals--or--Examination-for-Qualification-as-a-Registered Representative;

The-various-securities-examinations--required-by--the--New-York Stock-Exchange;--the--American-Stock-Exchange;--Pacific-Stock Exchange;--or--any--other--registered-national-securities-exchange; The--Securities--and--Exchange-Commission--test--given--pursuant-to Section-15(b)-69-of-the-Federal-Securities-Exchange-Act-of-1934 (15-U-S-C-78a-et-seq);

Part-1-of-the-examination--recommended-for-the-testing-of-variable contract--agents;--by--the--National-Association-of--Insurance Commissioners;--when--adopted-by-the-Insurance-Department--of--any State--or--territory-of-the-United-States--and--approved-for-use-by such-Department-by-the-Securities--and--Exchange-Commission--if such--examination--was--successfully--completed--prior-to-July-17 1970;

"variable Contract contract;"--when-used-in-this-Party shall mean any policy or contract which provides for life insurance or annuity benefits that which vary according to the investment experience of any separate account or accounts maintained by the insurer as to such policy or contract, as provided for in Section 245.21 of the Illinois Insurance Code [215 ILCS 5/245.21] {###-Rev-Stat-1981; ch-73; par-657;##}.

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

~~Variable Contract~~ contract producer agent, ~~when used in this Party~~ shall mean a ~~producer~~ ~~an agent~~ who shall sell or offer to sell any variable contract.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 1451.30 Qualification of Insurance Companies to Issue Variable Contracts

a) Before any company shall deliver or issue for delivery variable contracts within this State it shall submit to the Director:

- 1) A general description of the kinds of variable contracts it intends to issue in this State.
- 2) If requested by the Director, a copy of the statutes and regulations of its state of domicile under which it is authorized to issue variable contracts, and
- 3) If requested by the Director, biographical data with respect to officers and directors of the company on the forms prescribed in Standards for Formation and Management Information Reports (50 Ill. Adm. Code 9.15).

b) The Director may require additional information to be filed prior to authorizing a company to transact a variable contract business.

c) The Director shall notify the company, in writing, that it is authorized to transact a variable contract business in this State.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 1451.40 Separate Accounts

A domestic company issuing variable contracts shall establish one or more separate accounts pursuant to Section 245.21 of the Illinois Insurance Code, subject to the following provisions of this Section:

- a) Reserves for:
 - 1) benefits guaranteed as to dollar amount and duration, and
 - 2) funds guaranteed as to principal amount or stated rate of interest, which may be maintained in a separate account if a portion of the assets of such separate account at least equal to such reserve liability is invested in accordance with the laws and regulations of this State governing the investments of life insurance companies. Such portion of the assets also shall not be taken into account in applying the investment limitations otherwise applicable to the investments of the company. If a variable contract includes incidental minimum guarantees as referred to in Section 1451.60(c)(3)(B) of this Part, this subsection (a)(2) paragraph shall apply only to the reserves for any excess of such minimum guarantees over the reserves for the

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

benefits that would be payable under the contract if there were no such minimum guarantees.

b) The company shall maintain in each separate account assets with a value at least equal to the reserves and other contract liabilities with respect to such account, except as may otherwise be approved by the Director.

c) All provisions of the Illinois Insurance Code and any administrative regulations ~~Parts~~ issued thereunder applicable to the officers and directors of insurance companies with respect to conflicts of interest shall also apply to members of any separate account's committee, board or other similar body. No officer or director of such company nor any member of the committee, board or body of a separate account shall receive directly or indirectly any commission or any other compensation with respect to the purchase or sale of assets of such separate account.

d) Any insurance company which issues or delivers variable contracts shall establish such administrative and accounting procedures as are necessary to properly identify the one or more separate accounts of the company derived from or in relation to contributions, premiums or considerations received by it under such contracts and which meet the standards specified in Section 133(1) of the Illinois Insurance Code [215 ILCS 5/133(1)] (Ill. Rev. Stat.: 1981; ch. 93; par. 745).

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 1451.50 Filing of Contracts

a) The filing requirements applicable to variable contracts shall be those filing requirements otherwise applicable under existing statutes and regulations of this State with respect to individual and group life insurance and annuity contract form filings, to the extent appropriate as determined by the Director.

b) ~~Insurance-selling variable contracts shall file with the Department of Insurance a copy of any sales literature and effective prospectus which is applicable to variable contracts to be issued or delivered in this State.~~

c) Individual contracts which provide for both fixed and variable benefits (which are specified at the time of the sale of such contracts) shall show, separately, the consideration to be paid for the fixed benefits and for the variable benefits.

d) In the sale of an individual variable contract, made in correlation with the sale of either a fixed life insurance policy or a fixed annuity contract, there shall be a disclosure to the prospective purchaser which shows the consideration to be paid for the variable contract separately from the other charges. If any benefits or nonforfeiture values which may accrue prior to the death of the insured are involved in the presentation of such a correlated sale,

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

the value of such fixed life insurance policy or such fixed annuity must be shown separately from any other values.

- d) Companies filing variable contracts shall include a certification by an officer of the company affirming that they will not sell the product subsequent to the Director's approval unless the Securities and Exchange Commission has provided an effective date for any securities registration required by Federal law.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 1451.60 Contracts Providing for Variable Benefits

- a) Illustrations of benefits payable under any variable contract shall not include projections of past investment experience into the future or attempted predictions of future investment experience; provided, however, that the form of illustration found in Appendix A of this Part may be utilized by companies in the sale of immediate variable annuities only.

- b) No individual variable annuity contract calling for the payment of periodic stipulated payments shall be delivered or issued for delivery in this State unless it contains in substance the following provisions or provisions which in the opinion of the Director are more favorable to the holders of such contracts:

- 1) A provision that there shall be a period of grace of 30 days or of one month, within which any stipulated payment to the insurer falling due after the first may be made, during which period of grace the contract shall continue in force. The contract may include a statement of the basis for determining the date as of which any such payment received during the period of grace shall be applied to produce the values under the contract arising therefrom:

- 2) A provision that, at any time within 1 one year from the date of default, in making periodic stipulated payments to the insurer during the life of the annuitant and unless the cash surrender value has been paid, the contract may be reinstated upon payment to the insurer of such overdue payments as required by the contract, and of all indebtedness ~~indebtedness~~ to the insurer on the contract, including interest. The contract may include a statement of the basis for determining the date as of which the amount to cover such overdue payments and indebtedness shall be applied to produce the values under the contract arising therefrom:

- 3) A provision specifying the options available in the event of default in a periodic stipulated payment. Such options may include an option to surrender the contract for a cash value as determined by the contract, and shall include an option to receive a paid-up annuity if the contract is not surrendered for

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

cash, the amount of such paid-up annuity being determined by applying the value of the contract at the annuity commencement date in accordance with the terms of the contract.

- c) No individual variable life insurance policy shall be delivered or issued for delivery in this State ~~state~~ unless it contains in substance the following provisions or provisions which in the opinion of the Director are more favorable to the holders of such policies:

- 1) A provision that there shall be a period of grace of 30 days or of one month, within which payment of any premium after the first may be made, during which a claim arises under the policy shall continue in force, but if a claim arises under the policy during such period of grace before the overdue premiums or the deferred premiums of the current policy year, if any, are paid, the amount of such premiums, together with interest not in excess of 6% per annum, may be deducted from any amount payable under the policy in settlement. The policy may contain a statement of the basis for determining any variation in benefits that may occur as a result of the payment of premium during the period of grace.

- 2) A provision that the policy will be reinstated at any time within 3 years from the date of default, unless the cash surrender value has been paid or unless the period of extended insurance has expired, upon the application of the insured and the production of evidence of insurability, including good health, satisfactory to the insurer and the payment of an amount not exceeding the greater of:

- A) all overdue premiums and the payment of any other indebtedness ~~indebtedness~~ to the insurer upon said policy with interest at a rate not exceeding 6% ~~per-centum~~ per annum compounded annually, or
- B) 110% of the increase in cash surrender value resulting from reinstatement.

- 3) ~~A~~ A provision for cash surrender values and paid-up insurance benefits available as non-forfeiture options under the policy in the event of default in a premium payment after premiums have been paid for a specified period.

- A) If the policy does not include a table of figures for the options so available, the policy shall provide that the company will furnish at least once in each policy year a statement showing the cash value as of a date no earlier than the prior policy anniversary.

- B) The method of computation of cash values and other non-forfeiture benefits, as described either in the policy or in a statement filed with the Commissioner, Director or Superintendent of the Jurisdiction in which the policy is delivered, shall be in accordance with actuarial procedures that recognize the variable nature of the policy. The method of computation must be such that, if the net investment return credited to the contract at all times from

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

the date of issue should be equal to the assumed investment increment factor if the contract provides for such a factor, or 3 1/2% if not, with premiums and benefits determined accordingly under the terms of the policy, the resulting cash values and other non-forfeiture benefits would be at least equal to the minimum values required by Section 229.2 of the Illinois Insurance Code [215 ILCS 5/229.2] ~~§§§§-Rev-1987;--ch:--73;--par:--84;--2~~ ~~§§§§-Rev-1987;--ch:--73;--par:--84;--2~~ for a fixed dollar policy with such premiums and benefits. The method of computation may disregard incidental minimum guarantees as to the dollar amounts payable. Incidental minimum guarantees include, for example, but are not to be limited to, a guarantee under a policy which provides for an assumed investment increment factor that the amount payable at death or maturity shall be at least equal to the amount that otherwise would have been payable if the net investment return credited to the contract at all times from the date of issue had been equal to such factor.

- d) Any variable annuity contract delivered or issued for delivery in this State shall stipulate the investment increment factors to be used in computing the dollar amount of variable benefits or other variable contractual payments or values thereunder, and may guarantee that expense and/or mortality results shall not adversely affect such dollar amounts. In the case of an individual variable annuity contract under which the expense and mortality results may adversely affect the dollar amount of benefits, the expense and mortality factors shall be stipulated in the contract.

1) In computing the dollar amount of variable benefits or other contractual payments or values under an individual variable annuity contract:

- A) The annual net investment increment assumption shall not exceed 5%, except with the approval of the Director;
- B) To the extent that the level of benefits may be affected by future mortality results, the mortality factor shall be determined from the 1983 Table "A" ~~Annuit-Mortality-Table for-1949-Ultimate~~, or any modification of that table not having a lower life-expectancy at any age, or, if approved by the Director, from another table.

- 2) "Expense," as used in subsection (d) of this Section ~~paragraph (d)-of-this-Section~~, may exclude some or all taxes, as stipulated in the contract.

- e) Any individual variable life insurance policy delivered or issued for delivery in this State shall stipulate the investment increment factor to be used in computing the dollar amount of variable benefits or other variable contractual payments or values thereunder and shall guarantee that expense and mortality results shall not adversely affect such dollar amounts.

- f) The reverse liability for variable contracts shall be established

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

pursuant to the requirements of Section 223 of the Illinois Insurance Code [215 ILCS 5/223] ~~§§§§-Rev-1987;--ch:--73;--par:--85;--2~~ in accordance with actuarial procedures that recognize the variable nature of the benefits provided and any mortality guarantees, provided such actuarial procedures meet the approval of the Director.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 1451.80 Foreign or Alien Companies

If the law or regulation in the place of domicile of a foreign or alien company provides a degree of protection to the policyholder and the public which is substantially equal to that provided by applicable provisions of the Illinois Insurance Code and this Part, the Director, to the extent deemed appropriate by ~~him--in-his-discretion~~, may consider compliance with such law or regulation as compliance with applicable provisions of the Illinois Insurance Code and this Part. The state of entry of an alien company shall be deemed its place of domicile for the purposes of this Part.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 1451.90 Licensing of Producers for Variable Contracts Examination-of Agents

- a)1) No producer agent shall be eligible to sell or offer for sale a variable contract unless, prior to making any solicitation or sale of such a contract, the producer he also is be licensed as a variable contract producer agent. No agent of a fraternal benefit company, which operates on a legal reserve basis, shall be eligible to be licensed as a variable contract producer agent unless the producer he also is be licensed as a life insurance producer agent--broker--or solicitor.

- b)2) Any producer agent who participates only in the sale or offering for sale of variable contracts that are not registered under the Federal Securities Act of 1933 (15 USC 77s-6; 77(a) et seq.) need not be licensed as a variable contract producer agent.

- c)3) Any producer agent applying for a license as a variable contract producer agent shall do so by filing with this Department proof of passing the NISP Series 6 or 7 examination or any superseding examination that grants authority to sell variable contracts. Proof of passing shall be in the form prescribed by the Director of Insurance Application--Form--680R--along-with-supporting-documents-as-required-in-the-Application-Form.

- e) The licensing as a variable contract agent--complying-with--Section 1451.90(b)--shall--not--become--effective--until--such-agent--shall--have--antifactority-passed--both--a-written:

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

- 1) securities examination and
- 2) variable contract examination--the variable contract examination shall be composed of at least 15 questions but not more than 50 questions--concerning the history, purpose, regulation and sale of variable contracts
- d) the variable contract examination will be given in such places and at such times as the Director shall from time to time designate--Upon application for license as a variable contract agent--the applicant shall be notified of the date of the next examination
- e) Any applicant for licensing as a variable contract agent shall be required to present evidence that he
- 1) has previously passed a securities examination as defined in Section 1451.100(c)
- 2) is currently registered with the Federal Securities and Exchange Commission as a broker-dealer or is currently associated with a broker-dealer and has met qualification requirements with respect to such association
- f) Every applicant applying for license as a variable contract agent shall satisfactorily complete the variable contract examination required by Section 1451.90(c) with a grade of at least seventy percent (70%) or shall present evidence of successful completion of a variable contract examination given under the supervision of an insurance department of any State or Territory of the United States
- g) Any applicant who fails to pass the variable contract examination required by Section 1451.90(c) may take such examination again 20 days after the first and any subsequent examinations
- h) Every applicant for a license as a variable contract agent shall be accompanied by an examination fee of \$15--A fee of \$10 will be charged for each re-examination administered to an applicant
- i) Except as modified by this Part--the Rules of this Department governing the licensing of--life--insurance agents--including examinations therefor shall apply thereto
- j) Results of the examination administered pursuant to Section 1451.90(c) will be reported by this Department to the applicant's company--in addition--examination results will be reported by this Department to any other State insurance Department requesting confirmation of the examination--grader--either upon request of such Department or upon request of the applicant or his company
- dk) Any person licensed in this State as a variable contract producer agent shall immediately report to the Director:
- 1) any suspension or revocation of the variable contract producer's agent's license or life insurance producer's agent's license in any other State or Territory of the United States,
 - 2) the imposition of any disciplinary sanction (including suspension or expulsion from membership, suspension or revocation or denial of registration) imposed upon him by any national securities exchange, or national securities association, or any federal, or state or territorial agency with jurisdiction over

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

- securities or variable contracts,
- 3) any judgment or injunction entered against the producer him on the basis of conduct deemed to have involved fraud, deceit, misrepresentation, or violation of any insurance or securities law of regulation.
- et) The Director may reject any application or suspend or revoke or refuse to renew any variable contract producer's agent's license upon any ground that would bar such applicant or such producer agent from being licensed to sell life insurance contracts in this State. The rules governing any proceeding relating to the suspension or revocation of a life insurance producer's agent's license shall also govern any proceeding for suspension or revocation of a variable contract producer's agent's license.
- fm) Renewal of a variable contract producer's agent's license shall follow the same procedure established for renewal of a producer's agent's license to sell life insurance contracts in this State.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 1451.100 Disclosure

- a) The following information shall be furnished to an applicant for a contract of variable life insurance prior to execution of the application:
- 1) A summary description of the insurance company and its principal activities.
 - 2) A summary explanation in non-technical terms of the principal variable features of the contract and of the manner in which any variable benefits reflect the investment experience of a separate account.
 - 3) A brief description of the investment policy for the separate account with respect to such contract.
 - 4) A list of investments in the separate account as of a date not earlier than the end of the last year for which an annual statement has been filed with the Director of the state of domicile.
 - 5) Summary financial statements of the insurance company and such separate account based upon the last annual statement filed with such Director, except that for a period of 1 four months after the filing of any annual statement the summary required by this subsection (a)(5) hereby may be based upon the annual statement, immediately preceding such last annual statement, filed with such Director.
- b) The insurance company may include such additional information as it deems appropriate.
- c) A copy of the statement containing the foregoing information required by subsection (a) shall be filed with such Director prior to any use

DEPARTMENT OF INSURANCE
NOTICE OF PROPOSED AMENDMENTS

of the statement thereof and shall be subject to disapproval if found to be inaccurate or misleading.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

DEPARTMENT OF NATURAL RESOURCES
NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Disabled Hunting Method Authorizations
- 2) Code Citation: 17 Ill. Adm. Code 760
- 3) Section Numbers: Proposed Action:
760.20 Amendment
760.30 Amendment
- 4) Statutory Authority: Implementing and authorized by Section 2.33 of the Wildlife Code [520 ILCS 5/2.33].
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to clarify the Crossbow Permit Application process by stating that applicants are required to take the standardized tests and to change the Standing Vehicle Permit requirements to allow permit holders to carry a loaded, uncased shotgun in/on a vehicle or conveyance while legally hunting upland game species in accordance with the provision of 17 Ill. Adm. Code 530 - Cock Pheasant, Hungarian Partridge, Bobwhite Quail and Rabbit Hunting.
- 6) Will this rulemaking replace any emergency amendment currently in effect?
No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice to:

Jack Price
Department of Natural Resources
524 S. Second Street
Springfield IL 62701-1787
217/782-1809

- 12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rule was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: the Department did not anticipate that amendments to this Part would be necessary.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER 1: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFE

PART 760

DISABLED HUNTING METHOD AUTHORIZATIONS

Section	
760.10	Issuance of Permits
760.20	Crossbow Permits
760.30	Standing Vehicle Permits
760.40	Rejection of Application/Revocation of Permits

AUTHORITY: Implementing and authorized by Section 2.33 of the Wildlife Code [520 ILCS 5/2.33].

SOURCE: Adopted at 24 Ill. Reg. 4950, effective March 13, 2000; amended at 24 Ill. Reg. _____, effective _____.

Section 760.20 Crossbow Permits

- a) Eligibility
- After proper application, the Department may issue a permit to hunt with a crossbow to those persons who have a permanent physical impairment due to injury or disease, congenital or acquired, that renders them so severely disabled as to be unable to use a conventional bow and arrow device. A person who meets any of the following automatically qualifies for a crossbow permit:
- 1) Has an amputation or other loss of one or more arms;
 - 2) Has an amputation or other loss of the index and middle finger on the draw and release hand.
 - 3) Has a permanent substantial loss of function in one or both arms or one or both hands and fails to meet the minimum standards of any one of the following standard tests, administered under the direction of a licensed physician:
 - A) Upper extremity pinch.
 - B) Grip.
 - C) Nine-hole peg.
 - 4) Has a permanent substantial loss of function in one or both shoulders and fails to meet the minimum standards of the standard shoulder strength tests, administered under the direction of a licensed physician.
- b) Any applicant with a permanent physical disability who, after taking the standard tests described in Section 760.20(a)(3) and (a)(4), fails to qualify for a crossbow permit may file a supplemental application with the Department for further consideration and review. The nature of the applicant's disability and how it renders the applicant unable to use a conventional bow and arrow device must be thoroughly

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

explained on the supplemental application by the physician. The supplemental application shall be forwarded to a physician, selected by the Department, who is board certified in occupational and preventive medicine. The Department's physician will then notify the Department as to whether the applicant should be issued a crossbow permit. ~~Any other permanent physical disability that renders the applicant unable to use a conventional bow and arrow device must be thoroughly explained on the application by the physician.~~

- c) Permits issued under this Section shall be valid for a period of 3 years from the date of issuance specified on the permit.
- d) Loss of the crossbow hunting permit shall require the holder to reapply.
- e) Application will require the applicant to certify that he is still suffering from a permanent physical disability that renders him unable to use a conventional bow and arrow device.
- f) Crossbow Equipment Requirements
Section shall meet all of the following specifications:

- 1) Shall have a minimum peak draw weight of 125 pounds and a maximum peak draw weight of 200 pounds.
- 2) Shall have a minimum limb width of 24 inches and a minimum overall length (from butt of stock to front of limbs) of 24 inches.
- 3) Shall have a working safety.
- 4) Shall be used with bolts or arrows of not less than 14 inches in length (not including point) with a broadhead. Broadheads may have fixed or expandable blades, but they must be barbed and have a minimum 7/8 inch diameter when fully opened. Broadheads with fixed blade must be metal or flint-, chert-, or obsidian-napped; broadheads with expandable blades must be metal. In accordance with 17 Ill. Adm. Code 530, flu flu arrows must be used on State owned and managed hunting areas for the taking of upland game.

g) Crossbow Hunting Rules

- 1) Crossbow permit holders are authorized to take game species during the seasons open to their taking by the use of archery devices, season dates, hours, daily limits, possession limits, and all other requirements of law apply.
- 2) The issuance of a crossbow permit does not exempt the holder from the necessity of obtaining hunting licenses, stamps, or other permits as required by law.
- 3) The crossbow permit must be carried by the hunter while exercising this privilege and must be presented to any law enforcement authority upon request.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Section 760.30 Standing Vehicle Permits

a) Eligibility

- 1) Class A - Permanent Disability
After proper application, the Department may issue a Class A permit to shoot from a standing vehicle to persons physically unable to walk due to a permanent disability.
- 2) Class B - Temporary Disability
After proper application, the Department may issue a Class B permit to shoot from a standing vehicle to persons physically unable to walk due to a temporary disability. The licensed physician completing the medical portion of the application must provide an approximation of how long it will be before the applicant has sufficiently recovered to the point that he/she is no longer physically unable to walk.
- 3) For the purposes of this Section, "physically unable to walk" shall mean that the applicant is incapable of walking more than 2 steps (4 feet).
- b) Class A permits issued under this Section shall be valid for a period of 3 years from the date of issuance as specified on the permit. Class B permits issued under this Section shall be valid for a period of not more than 90 days from the date of issuance as specified on the permit.
- c) Loss of the standing vehicle hunting permit shall require the holder to reapply.
- d) Reapplication for a Class A permit will require the applicant to certify that he is still suffering from a permanent physical disability that renders him unable to walk. Reapplication for a Class B permit requires the same documentation as an original application.
- e) Standing Vehicle Hunting Rules
1) Standing vehicle permit holders are authorized to shoot from a vehicle that is totally immobile with the engine turned off. When the vehicle is moving, guns must be unloaded and enclosed in a case, and bow and arrow devices unstrung, enclosed in a case or otherwise rendered inoperable, in accordance with Section 2.33(n) of the Wildlife Code [520 ICS 5/2.33(n)]. Except, however, that holders of Standing Vehicle Permits, who are in the field legally hunting pheasant, quail, Hungarian partridge or rabbit, shall be permitted to carry a loaded and uncased shotgun in or on a vehicle or conveyance in accordance with the provisions of 17 Ill. Adm. Code 530.10(b).
- 2) The standing vehicle permit applies only on private property where permission of the landowner has been obtained. It does not apply on public roadways. Persons wishing to shoot/hunt from a standing vehicle on Department-owned or managed properties must obtain permission from the Site Superintendent in accordance with 17 Ill. Adm. Code 110.
- 3) Season dates, hours, daily limits, possession limits, and all

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

- other requirements by law apply.
- 4) The issuance of a standing vehicle permit does not exempt the holder from the necessity of obtaining hunting licenses, stamps, or other permits as required by law.
 - 5) The standing vehicle permit must be carried by the hunter while exercising this privilege and must be presented to any law enforcement authority upon request.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Mobile Sources
- 2) Code Citation: 35 Ill. Adm. Code 240
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
240.102	Amended
240.104	Amended
240.105	Amended
240.106	Amended
240.107	Amended
240.124	Repealed
240.125	Amended
240.162	Amended
240.163	Amended
240.164	Amended
240.165	Amended
240.191	Amended
TABLE A	Amended
TABLE B	Amended
TABLE C	Amended
- 4) Statutory Authority: Section 13B-20(a) of the Vehicle Emissions Inspection Law of 1995 [625 ILCS 5/13B-20(a)] and Sections 5, 10, 27, and 28 of the Environmental Protection Act [415 ILCS 5/5, 10, 27, and 28]
- 5) A Complete Description of the Subjects and Issues Involved: A more complete description of the proposed amendments may be found in the Illinois Pollution Control Board's (Board) opinion and order of August 24, 2000. On August 21, 2000, the Illinois Environmental Protection Agency (Agency) filed with the Board proposed amendments to the enhanced vehicle inspection and maintenance (I/M) regulations at 35 Ill. Adm. Code 240. The enhanced I/M program is designed to control air emissions from vehicles and it applies in the Chicago metropolitan and Metro-East St. Louis ozone nonattainment areas.

The Agency states that it is proposing the amendments "to enable Illinois to meet federal and state mandated enhanced emissions testing requirements." The Agency describes its proposed amendments as follows: delaying the implementation of "pass/fail" on-board diagnostic testing from January 1, 2001, to January 1, 2002; retaining current, more lenient "start-up" hydrocarbon and carbon monoxide emission standards for model year 1981 through model year 1986 light duty vehicles, light duty trucks 1, and light duty trucks 2; and adding several definitions, incorporating United States Environmental Protection Agency guidance by reference, eliminating outdated provisions, and clarifying certain provisions.

The Agency proposes to amend 35 Ill. Adm. Code 240 pursuant to Section 13B-20(a) of the Vehicle Emissions Inspection Law of 1995 [625 ILCS

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

5/13B-20(a)). Because Section 13B-20(a) requires the Board to adopt rules within 120 days after it receives the Agency's proposal, the Board, without commenting on the merits of the Agency's proposal, proceeded by submitting the proposed amendments for publication in the *Illinois Register* as a proposal for public comment.

Section 13B-20(a) of the Vehicle Emissions Inspection Law of 1995 [625 ILCS 5/13B-20(a)] states that Section 27(b) of the Environmental Protection Act [415 ILCS 5/27(b)] and the rulemaking provisions of the Administrative Procedure Act [5 ILCS 100/1-1 et seq.] "shall not apply to rules adopted by the Board under this subsection." 625 ILCS 5/13B-20(a). Accordingly, the Board will not request that the Department of Commerce and Community Affairs conduct an economic impact study of the proposed amendments pursuant to Section 27(b) of the Environmental Protection Act. Nor will the Board submit the proposed amendments for first or second notice pursuant to Section 5-40 of the Administrative Procedure Act [5 ILCS 100/5-40]. The Board will, however, hold public hearings and accept public comment.

6) Will these proposed amendments replace an emergency rulemaking currently in effect? No

7) Does this rulemaking contain an automatic repeal date? No

8) Do these proposed amendments contain incorporations by reference? Yes. The proposed amendments would incorporate by reference a document entitled "IM240 & Evap Technical Guidance," Report EPA420-R-00-007 (April 2000), from the United States Environmental Protection Agency, Transportation and Regional Programs Division, Office of Transportation and Air Quality, 2565 Plymouth Road, Ann Arbor, MI 48105.

9) Are there any other proposed amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: The Vehicle Emissions Inspection Law of 1995 [625 ILCS 5/13B-1 et seq.] and the federal Clean Air Act [42 U.S.C. 7401 et seq.] require an enhanced vehicle inspection and maintenance (I/M) program. The Illinois Environmental Protection Agency states that it is proposing to amend Illinois' enhanced I/M program (set forth at 35 Ill. Adm. Code 240) to enable Illinois to meet federal and state mandated enhanced emissions testing requirements."

11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments concerning this rulemaking should reference R01-12 and be sent to:

Dorothy Gunn
Clerk of the Pollution Control Board
100 West Randolph Street

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Suite 11-500
Chicago, Illinois 60601
and

Christopher P. Demeroukas
Assistant Counsel
Illinois Environmental Protection Agency
Division of Legal Counsel
1021 North Grand Avenue, East
Springfield, Illinois 62702

Questions regarding this proposal may be directed to Richard McGill of the Board at 312-814-6983.

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: The proposed amendments would affect those small businesses, small municipalities, and not-for-profit corporations that own or operate certain vehicles subject to the enhanced vehicle inspection and maintenance (I/M) program, set forth at 35 Ill. Adm. Code 240.

B) Reporting, bookkeeping or other procedures required for compliance: The proposed amendments would not directly impose any reporting or recordkeeping requirements on vehicle owners or operators.

C) Types of professional skills necessary for compliance: The proposed amendments would not directly require professional skills for vehicle owners or operators to comply with the enhanced I/M program. However, vehicle owners and operators may use skilled automotive mechanics to assist in complying with the enhanced I/M program.

13) Regulatory Agenda on which this rulemaking was summarized: July 2000

The full text of the Proposed Amendments begins on the next page:

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 35; ENVIRONMENTAL PROTECTION

SUBTITLE B: AIR POLLUTION

CHAPTER I: POLLUTION CONTROL BOARD

SUBCHAPTER k: EMISSION STANDARDS AND LIMITATIONS
FOR MOBILE SOURCES

PART 240

MOBILE SOURCES

SUBPART A: DEFINITIONS AND GENERAL PROVISIONS

Section

240.101 Preamble

240.101 Definitions

240.103 Prohibitions

240.104 Inspection

240.105 Penalties

240.106 Determination of Violation

240.107 Incorporations by Reference

SUBPART B: EMISSIONS

Section

240.121 Smoke Emissions

240.122 Diesel Engine Emissions Standards for Locomotives

240.123 Liquid Petroleum Gas Fuel Systems

240.124 Vehicle Exhaust Emission Standards (Repealed)

240.125 Compliance Determination (Repealed)

SUBPART C: HEAVY-DUTY DIESEL SMOKE OPACITY STANDARDS AND TEST PROCEDURES

Section

240.140 Applicability

240.141 Heavy-Duty Diesel Vehicle Smoke Opacity Standards and Test Procedures

SUBPART D: STEADY-STATE IDLE MODE TEST EMISSION STANDARDS

Section

240.151 Applicability

240.152 Steady-State Idle Mode Vehicle Exhaust Emission Standards

240.153 Compliance Determination

SUBPART E: TRANSIENT LOADED MODE TEST EMISSION STANDARDS

Section

240.161 Applicability

240.162 Vehicle Exhaust Emission Start-Up Standards

240.163 Vehicle Exhaust Emission Final Standards

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

240.164 Vehicle Exhaust Emission Fast-Pass Standards

240.165 Compliance Determination

SUBPART F: EVAPORATIVE TEST STANDARDS

Section

240.171 Applicability

240.172 Evaporative System Integrity Test Standards

240.173 Evaporative System Purge Test Standards (Repealed)

SUBPART G: ON-ROAD REMOTE SENSING TEST EMISSION STANDARDS

Section

240.181 Applicability

240.182 On-Road Remote Sensing Emission Standards

240.183 Compliance Determination

SUBPART H: ON-BOARD DIAGNOSTIC TEST STANDARDS

Section

240.191 Applicability

240.192 On-Board Diagnostic Test Standards

240.193 Compliance Determination

APPENDIX A Rule into Section Table

APPENDIX B Section into Rule Table

TABLE A Vehicle Exhaust Emission Start-Up Standards

TABLE B Vehicle Exhaust Emission Final Standards

TABLE C Vehicle Exhaust Emission Fast-Pass Standards

AUTHORITY: Implementing Sections 9, 10 and 13 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/9, 10, 13, and 27] and Section 13B-20 of the Vehicle Emissions Inspection Law of 1995 [625 ILCS 5/13B-20].

SOURCE: Adopted as Chapter 2: Air Pollution, Part VII: Mobile Sources, filed and effective April 14, 1972, codified at 7 Ill. Reg. 13628; amended in R85-25, at 10 Ill. Reg. 11277, effective June 16, 1986; amended in R90-20, at 16 Ill. Reg. 6184, effective April 7, 1991; amended in R94-20 at 18 Ill. Reg. 18013, effective December 12, 1994; amended in R94-19 at 18 Ill. Reg. 18226, effective December 20, 1994; amended in R98-24 at 22 Ill. Reg. 13723, effective July 13, 1998; expedited correction at 22 Ill. Reg. 21120, effective July 13, 1998; amended at 24 Ill. Reg. _____, effective _____.

BOARD NOTE: This Part implements the Environmental Protection Act as of July 1, 1994.

SUBPART A: DEFINITIONS AND GENERAL PROVISIONS

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 240.102 Definitions

All terms which appear in this Part have the definitions specified in this Part and 35 Ill. Adm. Code 201 and 211. Where conflicting definitions occur, the definitions of this Section apply in this Part.

"Adjusted Loaded Vehicle Weight ("ALVW") means vehicle curb weight plus gross vehicle weight rating divided by two.

"Agency" means the Illinois Environmental Protection Agency.

"Diesel engine" means all types of internal-combustion engines in which air is compressed to a temperature sufficiently high to ignite fuel injected directly into the cylinder area.

"Diesel locomotive" means a diesel engine vehicle designed to move cars on a railway.

"Evaporative system integrity test" means a test of a vehicle's evaporative system. The test shall either consist of a leak check of a vehicle's fuel cap with a fuel cap pressure decay tester (fuel cap pressure decay test), a fuel cap leak flow tester (fuel cap leak flow test), or a visual functional check, as applicable.

"Fuel cap" means a device used to seal a vehicle's fuel inlet.

"Fuel cap leak flow test" means a test which may be performed in accordance with this Part on a vehicle's fuel cap using a fuel cap leak flow tester to determine whether the vehicle complies with the evaporative system emission standards of this Part.

"Fuel cap leak flow tester" means a device used to determine the leak flow integrity of a vehicle's fuel cap by comparing the measured leak flow of the fuel cap with an established fuel cap leak flow standard.

"Fuel cap pressure decay test" means the test performed in accordance with this Part on a vehicle's fuel cap using a fuel cap pressure decay tester to determine whether the vehicle complies with the evaporative system emission standards of this Part.

"Fuel cap pressure decay tester" means a device used to determine the pressure decay integrity of a vehicle's fuel cap by monitoring the pressure behind the fuel cap for a ten second period and comparing the measured pressure decay of the fuel cap to an established fuel cap pressure decay standard.

"Fuel cap visual functional test" means the test performed in accordance with this Part on a vehicle's fuel cap using visual

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

analysis to determine whether the vehicle complies with the evaporative system emission standards of this Part.

"Full power position" means the throttle position at which the engine fuel delivery is at maximum flow.

"Gross vehicle weight rating (GVWR)" means the value specified by the manufacturer as the maximum design loaded weight of a single vehicle.

"Heavy duty vehicle" means any motor vehicle rated at more than 8500 pounds GVWR or that has a vehicle curb weight of more than 6000 pounds or that has a basic vehicle frontal area in excess of 45 square feet.

"High idle" means a vehicle operating condition with engine disconnected from an external load (placed in either neutral or park) and operating at speed of 2500 ± 300 RPM.

"Idle mode" means that portion of a vehicle emission test procedure conducted with the engine disconnected from an external load and operating at minimum throttle.

"Initial idle mode" means the first of up to two idle mode sampling periods during a steady-state idle mode test, during which exhaust emission measurements are made with the vehicle in "as-received" condition.

"Light duty truck 1" means a motor vehicle rated at 6000 pounds maximum GVWR or less and which has a vehicle frontal area of 45 square feet or less, and which is designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or is designed primarily for transportation of persons and has a capacity of more than 12 persons, or is available with special features enabling off-street or off-highway operation and use.

"Light duty truck 2" means a motor vehicle rated between 6001 and 8500 pounds maximum GVWR and which has a vehicle frontal area of 45 square feet or less, and which is designed primarily for purposes of transportation of property or is a derivation of such a vehicle, or is designed primarily for transportation of persons and has a capacity of more than 12 persons, or is available with special features enabling off-street or off-highway operation and use.

"Light duty vehicle" means a passenger car or passenger car derivative capable of seating 12 passengers or fewer. "Loaded mode" means that portion of a vehicle emission test procedure conducted with the vehicle positioned and operating under load on a chassis dynamometer.

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

"Loaded mode" means that portion of a vehicle emission test procedure conducted with the vehicle positioned and operating under load on a chassis dynamometer.

"Loaded vehicle weight (LVW)" means the vehicle curb weight plus 300 pounds.

"Measured values" means five second running averages of exhaust emission concentrations sampled at a minimum rate of twice per second.

"Model year" means the year of manufacture of a motor vehicle based upon the annual production period as designated by the manufacturer and indicated on the title and registration of the vehicle. If the manufacturer does not designate a production period for the vehicle, then "model year" means the calendar year of manufacture.

"Motor vehicle" as used in this Part, shall have the same meaning as in Section 1-146 of the Illinois Vehicle Code [625 ILCS 5/1-146].

"Preconditioning mode" means a period of steady-state loaded mode or high-idle operation conducted to ensure that the engine and emissions control system components are operating at normal operating temperatures, thus minimizing false failures caused by improper or insufficient warm-up.

"Second-chance idle mode" means the second of two idle mode sampling periods during a steady-state idle mode test, preceded by a preconditioning mode and utilized as a second chance to pass idle exhaust emission standards immediately following an initial idle mode failure.

"Smoker or opacimeter" means an optical instrument designed to measure the opacity of smoke or diesel exhaust gases using the light extinction method.

"Snap-idle cycle" means rapidly depressing the accelerator pedal from normal idle to the full power position while the vehicle is in neutral, holding the pedal in the position for no longer than ten seconds or until the engine reaches maximum RPM, and fully releasing the pedal so that the engine decelerates to normal idle.

"Steady-state idle test" means a vehicle emission test procedure consisting of an initial idle mode measurement of exhaust emissions followed, if necessary, by a loaded or high idle preconditioning mode and a second-chance idle mode.

"Transient loaded mode test" means a vehicle emissions test run on an inertial and power absorbing dynamometer using USEPA's IM240 driving

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

cycle consisting of accelerations and decelerations simulating on-road driving conditions.

"Vehicle curb weight" means the actual vehicle weight plus standard equipment and a full fuel tank.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 240.104 Inspection

a) All motor vehicles subject to inspection pursuant to Section 13A-104 of the Vehicle Emissions Inspection Law [625 ILCS 5/13A-104] shall comply with the exhaust emission standards for carbon monoxide and hydrocarbons set forth at Section 240-124 of this Part.

b) All motor vehicles subject to inspection pursuant to Section 13B-15 of the Vehicle Emissions Inspection Law [625 ILCS 5/13B-15] shall comply with applicable vehicle emission standards contained in Sections 240.152, 240.162, 240.163, 240.172, 240.182 and 240.192 of this Part.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 240.105 Penalties

a) Any violations of Sections 240.103, 240.121, 240.122, and 240.123 of this Part shall be subject to the penalties as set forth in Section 42 of the Act [415 ILCS 5/42].

b) Any violations of Sections 240-104(a) and 240-124 of this Part shall be subject to the penalties as set forth in Sections 13A-112 and 13A-113 of the Vehicle Emissions Inspection Law [625 ILCS 5/13A-112 and 5/13A-113].

c) Any violations of Sections 240.104(b), 240.152, 240.162, 240.163, 240.172, 240.182, and 240.192 of this Part shall be subject to the penalties as set forth in Sections 13B-55 and 13B-60 of the Vehicle Emissions Inspection Law.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 240.106 Determination of Violation

a) Any violations of Sections 240.103, 240.121, 240.122, and 240.123 of this Part shall be determined by visual observation or by a test procedure employing an opacity measurement system as qualified by 35 Ill. Adm. Code 201, Subpart J.

b) Any violations of Sections 240-124, 240.152, 240.162, 240.163, 240.172, 240.182, or 240.192 of this Part shall be determined in

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

accordance with test procedures adopted by the Agency in 35 Ill. Adm. Code 276.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 240.107 Incorporations by Reference

The following materials are incorporated by reference and include no later editions or amendments:

- a) Society of Automotive Engineers (SAE), 400 Commonwealth Drive, Warrendale, PA 15096: Report J225a Diesel Engine Smoke Measurement (August 1978).
- b) International Standards Organization (ISO), Case Postale 56, 1211 Geneva 20, Switzerland: ISO 393 (Working Draft, January 1991). Also available from American National Standards Institute (ANSI), 11 West 42nd Street, New York, NY 10036.
- c) United States Environmental Protection Agency (USEPA), "High-Tech I/M Test Procedures, Emission Standards, Quality Control Requirements, and Equipment Specifications: IM240 and Functional Evaporative System Tests, Revised Technical Guidance," Report EPA-RA-RSPD-IM-96-1 (June 1996), 2565 Plymouth Road, Ann Arbor, MI 48105.
- d) United States Environmental Protection Agency (USEPA), Transportation and Regional Programs Division, Office of Transportation and Air Quality, "IM240 & Evap Technical Guidance," Report EPA 420-R-00-007 (April 2000), 2565 Plymouth Road, Ann Arbor, MI 48105.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART B: EMISSIONS

Section 240.124 Vehicle Exhaust Emission Standards (Repealed)

- a) Exhaust-emissions-from-light-duty-vehicles-shall-not-exceed-the following limitations:

Model Year	Carbon-Monoxide (ppm)	Hydrocarbons-as-Hexane (ppm)
------------	-----------------------	------------------------------

1968---1971	9-0	900
1972---1974	8-0	900
1975---1977	7-0	700
1978---1979	6-0	600
1980	5-0	500
1981-and-later	3-2	220

- b) Exhaust-emissions-from-light-duty-trucks-which-for-the-purposes-of this-subsection-means-a-motor-vehicle-rated-at-8000-pounds-gross

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

vehicle-weight-or-less-which-is-designed-for-carrying-more-than-10 persons-or-designed-for-the-transportation-of-property-freight-or cargo-or-is-a-derivative-of-such-a-vehicle-shall-not-exceed-the following limitations:

Model Year	Carbon-Monoxide (ppm)	Hydrocarbons-as-Hexane (ppm)
------------	-----------------------	------------------------------

1968---1971	9-0	900
1972---1974	8-0	800
1975---1978	7-0	700
1979---1980	6-0	600
1981---1983	5-0	500
1984-and-later	3-2	220

- c) Exhaust-emissions-from-heavy-duty-vehicles-which-for-the-purposes-of this-subsection-means-a-vehicle-with-8000-pounds-or-greater manufacturer's-maximum-gross-vehicle-weight-rating-(GVWR)-shall-not exceed-the-following-limitations:

Model Year	Carbon-Monoxide (ppm)	Hydrocarbons-as-Hexane (ppm)
------------	-----------------------	------------------------------

1968---1971	9-5	1500
1972---1978	9-0	900
1979---1984	7-0	700
1985-and-later	5-0	500

(Source: Repealed at 24 Ill. Reg. _____, effective _____)

Section 240.125 Compliance Determination (Repealed)

For-purposes-of-determining-compliance-with-Section-240.124-of-this-Part-all vehicles-shall-be-inspected-while-operating-in-the-idle-mode-and-all-1981-and later-model-year-light-duty-vehicles-and-light-duty-trucks-(as-defined-in Subsection-240.124(b)-of-this-Part)-shall-be-inspected-at-high-idle-during-a two-speed-idle test:

(Source: Repealed at 24 Ill. Reg. _____, effective _____)

SUBPART E: TRANSIENT LOADED MODE TEST EMISSION STANDARDS

Section 240.162 Vehicle Exhaust Emission Start-Up Standards

Vehicle exhaust emission start-up standards contained in Section 240. Table A of this Part shall apply for all vehicles subject to inspection until two years after the beginning of 1924 testing. Subsequently, these standards shall continue to apply to all model year 1981 through model year 1987 LDV, LDV1, and

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

LD72 vehicles. All standards are expressed in grams per mile (gpm).

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 240.163 Vehicle Exhaust Emission Final Standards

Vehicle exhaust emission final standards contained in Section 240.162 of this Part shall apply for all vehicles subject to inspection beginning at the conclusion of testing using the start-up vehicle exhaust emissions standards required in Section 240.162 except for model year 1991 through model year 1997 LDV, LDRL, and LD72 vehicles, which shall continue to use the standards contained in Section 240.162 of this Part as described in Section 240.162. All standards are expressed in grams per mile (gpm).

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 240.164 Vehicle Exhaust Emission Fast-Pass Standards

Vehicle exhaust emissions fast-pass standards contained in Section 240.164 of this Part will apply for all vehicles subject to inspection under Section 240.161 of this Part utilizing the IM240 transient loaded mode exhaust emission test procedures that have been adopted by the Agency in 35 Ill. Adm. Code 276. All standards are expressed as the cumulative grams for each second of the composite and Phase 2 tests.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

Section 240.165 Compliance Determination

a) Vehicle Exhaust Emission Start-Up and Final Standards - Compliance shall be determined based upon the measurement of exhaust emissions while operating the vehicle on a dynamometer and following the driving cycle as specified for the transient IM240 test procedures adopted by the Agency. If the corrected, composite emission rates exceed standards for any pollutant, additional analysis of test results shall review the second phase ("Phase 2") of the driving cycle separately. Phase 2 shall include second 94 through second 239 of the driving cycle. Second-by-second emission rates in grams and composite emission rates in grams per mile for Phase 2 and for the entire composite test shall be recorded for each pollutant. For any given pollutant, if the composite emission level is at or below the composite standard or if the Phase 2 grams per mile emission level is at or below the applicable Phase 2 standard, then the vehicle shall pass the test for that pollutant. Composite and Phase 2 emission rates shall be calculated in accordance with procedures specified in "High-Tech I/M

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Procedures, Emissions Standards, Quality Control Requirements, and Equipment Specifications: IM240 and Functional Evaporative System Tests, Revised Technical Guidance," incorporated by reference at Section 240.107(c) 249-107 of this Part.

b) Vehicle Exhaust Emission Fast-Pass Standards - Compliance will be determined based upon the measurement of exhaust emissions while operating the vehicle on a dynamometer and following the driving cycle as specified for the transient IM240 test procedures adopted by the Agency. Vehicles will be fast-passed using the following algorithm:

- 1) Beginning at second 30 of the driving cycle, cumulative second-by-second emission levels for each second, calculated from the start of the cycle in grams, will be compared to the cumulative fast-pass emission standards for the second under consideration. Beginning at second 109, fast-pass decisions are based upon analysis of cumulative emissions in Phase 2, the portion of the test beginning at second 94, as well as emission levels accumulated from the beginning of the composite test.

2) A vehicle will pass the transient IM240 test for a given pollutant if either of the following conditions occurs:

- A) cumulative emissions of the pollutant are below the full cycle fast-pass standard for the second under consideration; or
- B) at second 109 and later, cumulative Phase 2 emissions are below the Phase 2 fast-pass standards for the second under consideration.

3) Testing may be terminated when fast-pass criteria are met for all subject pollutants in the same second.

4) If a fast-pass determination cannot be made for all subject pollutants before the driving cycle ends, the pass/fail determination for each component will be based on composite or Phase 2 emissions over the full driving cycle according to the procedures in subsection (a) of this Section. In cases where fast-pass standards are not used, composite emission rates in grams per mile for Phase 2 and for the entire composite test will be recorded for each pollutant.

5) Composite and Phase 2 emission rates will be calculated in accordance with procedures specified in "High-Tech I/M Procedures, Emissions Standards, Quality Control Requirements, and Equipment Specifications: IM240 and Functional Evaporative System Tests, Revised Technical Guidance" incorporated by reference at Section 240.107(c) 249-107 of this Part.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

SUBPART H: ON-BOARD DIAGNOSTIC TEST STANDARDS

Section 240.191 Applicability

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

The standards of this Subpart apply to all 1996 and newer model year light duty vehicles, light duty trucks 1, and light duty trucks 2 that are required to meet the standards contained in 40 CFR 86.094-17 and which are inspected utilizing the on-board diagnostic test procedures that will be adopted by the Agency in 35 Ill. Adm. Code 276. Vehicles that receive a result of fail do not thereby fail their emissions test until January 1, 2002#061.

(Source: Amended at 24 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 240.TABLE A Vehicle Exhaust Emission Start-Up Standards

Light Duty Vehicles:

Model Years	Hydrocarbons		Carbon Monoxide		Oxides of Nitrogen	
	Composite	Phase 2	Composite	Phase 2	Composite	Phase 2
	(gpm)	(gpm)	(gpm)	(gpm)	(gpm)	(gpm)
1996+	0.80	0.50	15.0	12.0	2.0	Reserved
1991-1995	1.20	0.75	20.0	16.0	2.5	Reserved
1988-1990	2.00	1.25	30.0	24.0	3.0	Reserved
1981-1982	2.00	1.25	60.0	48.0	3.0	Reserved

Light Duty Trucks 1:

Model Years	Hydrocarbons		Carbon Monoxide		Oxides of Nitrogen	
	Composite	Phase 2	Composite	Phase 2	Composite	Phase 2
	(gpm)	(gpm)	(gpm)	(gpm)	(gpm)	(gpm)
1996+	0.80	0.50	15.0	12.0	2.0	Reserved
(≤ 3750 L/VW)	1.00	0.63	20.0	16.0	2.5	Reserved
1991-1995	2.40	1.50	60.0	48.0	3.0	Reserved
1988-1990	3.20	2.00	80.0	64.0	3.5	Reserved
1984-1987	3.20	2.00	80.0	64.0	7.0	Reserved
1981-1983	7.50	5.00	100.0	80.0	7.0	Reserved

Light Duty Trucks 2:

Model Years	Hydrocarbons		Carbon Monoxide		Oxides of Nitrogen	
	Composite	Phase 2	Composite	Phase 2	Composite	Phase 2
	(gpm)	(gpm)	(gpm)	(gpm)	(gpm)	(gpm)
1996+	1.00	0.63	20.0	16.0	2.5	Reserved
(≤ 5750 AL/VW)	2.40	1.50	60.0	48.0	4.0	Reserved
1991-1995	2.40	1.50	60.0	48.0	4.5	Reserved
1988-1990	3.20	2.00	80.0	64.0	5.0	Reserved
1984-1987	3.20	2.00	80.0	64.0	7.0	Reserved
1981-1983	7.50	5.00	100.0	80.0	7.0	Reserved

(Source: Amended at 24 Ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 240. TABLE B Vehicle Exhaust Emission Final Standards

Light Duty Vehicles:

Model Years	Hydrocarbons Composite (gpm)	Phase 2 (gpm)	Carbon Monoxide Composite (gpm)	Phase 2 (gpm)	Oxides of Nitrogen Composite (gpm)	Phase 2 (gpm)
1996+	0.60	0.40	10.0	8.0	1.5	Reserved
1983-1995	0.80	0.50	15.0	12.0	2.0	Reserved
1981-1982	0.80	0.50	30.0	24.0	2.0	Reserved

Light Duty Trucks 1:

Model Years	Hydrocarbons Composite (gpm)	Phase 2 (gpm)	Carbon Monoxide Composite (gpm)	Phase 2 (gpm)	Oxides of Nitrogen Composite (gpm)	Phase 2 (gpm)
1996+	0.60	0.40	10.0	8.0	1.5	Reserved
(≤ 3750 L/W)	0.80	0.50	13.0	10.0	1.8	Reserved
(> 3750 L/W)	1.60	1.00	40.0	32.0	2.5	Reserved
1988-1995	1.60	1.00	40.0	32.0	4.5	Reserved
1984-1987	3.40	2.00	70.0	56.0	4.5	Reserved
1981-1983						

Light Duty Trucks 2:

Model Years	Hydrocarbons Composite (gpm)	Phase 2 (gpm)	Carbon Monoxide Composite (gpm)	Phase 2 (gpm)	Oxides of Nitrogen Composite (gpm)	Phase 2 (gpm)
1996+	0.80	0.50	13.0	10.0	1.8	Reserved
(≤ 5750 L/W)	0.80	0.50	15.0	12.0	2.0	Reserved
(5750 L/W)	1.60	1.00	40.0	32.0	3.5	Reserved
1988-1995	1.60	1.00	40.0	32.0	4.5	Reserved
1984-1987	3.40	2.00	70.0	56.0	4.5	Reserved
1981-1983						

(Source: Amended at 24 ill. Reg. _____, effective _____)

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

Section 240. TABLE C Vehicle Exhaust Emission Fast-Pass Standards

- a) Vehicles having composite hydrocarbon emission limitations of less than 1.25 grams per mile, in Section 240. TABLE A or Section 240. TABLE B, shall use the hydrocarbon fast-pass standards contained in this Subpart. Vehicles having composite carbon monoxide emission limitations of less than 20.0 grams per mile, in Section 240. TABLE A or Section 240. TABLE B, shall use the carbon monoxide fast-pass standards contained in this subpart:

Second	Hydrocarbons		Carbon Monoxide	
	Composite	Phase 2	Composite	Phase 2
30	0.124	N/A	0.693	N/A
31	0.126	N/A	0.773	N/A
32	0.129	N/A	0.837	N/A
33	0.135	N/A	0.851	N/A
34	0.140	N/A	0.853	N/A
35	0.146	N/A	0.857	N/A
36	0.150	N/A	0.900	N/A
37	0.153	N/A	0.960	N/A
38	0.156	N/A	1.034	N/A
39	0.160	N/A	1.070	N/A
40	0.165	N/A	1.076	N/A
41	0.169	N/A	1.083	N/A
42	0.172	N/A	1.102	N/A
43	0.173	N/A	1.111	N/A
44	0.177	N/A	1.114	N/A
45	0.197	N/A	1.157	N/A
46	0.200	N/A	1.344	N/A
47	0.208	N/A	1.482	N/A
48	0.221	N/A	1.530	N/A
49	0.232	N/A	1.542	N/A
50	0.235	N/A	1.553	N/A
51	0.238	N/A	1.571	N/A
52	0.240	N/A	1.595	N/A
53	0.242	N/A	1.633	N/A
54	0.246	N/A	1.685	N/A
55	0.249	N/A	1.689	N/A
56	0.252	N/A	1.693	N/A
57	0.261	N/A	1.700	N/A
58	0.271	N/A	1.723	N/A
59	0.276	N/A	1.852	N/A
60	0.278	N/A	1.872	N/A
61	0.280	N/A	1.872	N/A
62	0.282	N/A	1.872	N/A
63	0.283	N/A	1.900	N/A
64	0.284	N/A	1.917	N/A
65	0.285	N/A	1.944	N/A

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

66	0.286	N/A	2.000	N/A	114	0.471	0.025	3.877	0.291
67	0.286	N/A	2.060	N/A	115	0.488	0.026	3.934	0.314
68	0.291	N/A	2.064	N/A	116	0.513	0.029	4.015	0.331
69	0.294	N/A	2.076	N/A	117	0.538	0.032	4.061	0.345
70	0.296	N/A	2.104	N/A	118	0.561	0.035	4.063	0.350
71	0.298	N/A	2.117	N/A	119	0.577	0.035	4.079	0.356
72	0.300	N/A	2.125	N/A	120	0.580	0.036	4.140	0.367
73	0.302	N/A	2.130	N/A	121	0.586	0.038	4.185	0.388
74	0.304	N/A	2.138	N/A	122	0.594	0.040	4.199	0.407
75	0.307	N/A	2.152	N/A	123	0.603	0.041	4.205	0.463
76	0.308	N/A	2.170	N/A	124	0.610	0.042	4.212	0.480
77	0.308	N/A	2.188	N/A	125	0.615	0.042	4.232	0.506
78	0.308	N/A	2.200	N/A	126	0.624	0.042	4.298	0.518
79	0.314	N/A	2.212	N/A	127	0.628	0.045	4.344	0.522
80	0.320	N/A	2.212	N/A	128	0.632	0.046	4.361	0.525
81	0.324	N/A	2.221	N/A	129	0.637	0.046	4.366	0.528
82	0.327	N/A	2.222	N/A	130	0.641	0.049	4.369	0.530
83	0.329	N/A	2.227	N/A	131	0.643	0.050	4.372	0.530
84	0.333	N/A	2.236	N/A	132	0.644	0.052	4.435	0.534
85	0.336	N/A	2.243	N/A	133	0.645	0.054	4.523	0.550
86	0.339	N/A	2.262	N/A	134	0.647	0.054	4.524	0.554
87	0.343	N/A	2.271	N/A	135	0.651	0.054	4.525	0.590
88	0.347	N/A	2.284	N/A	136	0.658	0.055	4.531	0.616
89	0.350	N/A	2.299	N/A	137	0.663	0.055	4.534	0.639
90	0.356	N/A	2.308	N/A	138	0.666	0.056	4.542	0.653
91	0.358	N/A	2.326	N/A	139	0.668	0.059	4.553	0.662
92	0.360	N/A	2.330	N/A	140	0.670	0.061	4.554	0.683
93	0.363	N/A	2.331	N/A	141	0.672	0.061	4.554	0.696
94	0.367	N/A	2.344	N/A	142	0.675	0.061	4.554	0.708
95	0.370	N/A	2.347	N/A	143	0.678	0.063	4.554	0.721
96	0.372	N/A	2.355	N/A	144	0.681	0.064	4.554	0.739
97	0.376	N/A	2.395	N/A	145	0.684	0.065	4.554	0.742
98	0.388	N/A	2.451	N/A	146	0.686	0.066	4.554	0.743
99	0.396	N/A	2.508	N/A	147	0.688	0.067	4.554	0.745
99	0.396	N/A	2.508	N/A	147	0.690	0.068	4.554	0.748
100	0.405	N/A	2.580	N/A	148	0.690	0.068	4.554	0.748
101	0.410	N/A	2.660	N/A	149	0.692	0.069	4.554	0.751
102	0.411	N/A	2.749	N/A	150	0.694	0.070	4.554	0.762
103	0.411	N/A	2.913	N/A	151	0.696	0.071	4.556	0.789
104	0.413	N/A	3.162	N/A	152	0.698	0.072	4.556	0.789
105	0.421	N/A	3.170	N/A	153	0.700	0.073	4.565	0.794
106	0.428	N/A	3.197	N/A	154	0.702	0.073	4.612	0.799
107	0.430	N/A	3.288	N/A	155	0.704	0.074	4.834	0.805
108	0.455	N/A	3.419	N/A	156	0.706	0.077	5.702	0.842
109	0.459	0.015	3.587	0.168	157	0.708	0.079	5.841	0.990
110	0.462	0.017	3.595	0.173	158	0.710	0.082	6.170	1.038
111	0.464	0.021	3.640	0.237	159	0.712	0.082	6.670	1.357
112	0.466	0.024	3.740	0.266	160	0.716	0.086	7.425	1.455
113	0.468	0.024	3.868	0.280	161	0.750	0.095	8.379	1.546

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

66	0.286	N/A	2.000	N/A	114	0.471	0.025	3.877	0.291
67	0.286	N/A	2.060	N/A	115	0.488	0.026	3.934	0.314
68	0.291	N/A	2.064	N/A	116	0.513	0.029	4.015	0.331
69	0.294	N/A	2.076	N/A	117	0.538	0.032	4.061	0.345
70	0.296	N/A	2.104	N/A	118	0.561	0.035	4.063	0.350
71	0.298	N/A	2.117	N/A	119	0.577	0.035	4.079	0.356
72	0.300	N/A	2.125	N/A	120	0.580	0.036	4.140	0.367
73	0.302	N/A	2.130	N/A	121	0.586	0.038	4.185	0.388
74	0.304	N/A	2.138	N/A	122	0.594	0.040	4.199	0.407
75	0.307	N/A	2.152	N/A	123	0.603	0.041	4.205	0.463
76	0.308	N/A	2.170	N/A	124	0.610	0.042	4.212	0.480
77	0.308	N/A	2.188	N/A	125	0.615	0.042	4.232	0.506
78	0.308	N/A	2.200	N/A	126	0.624	0.042	4.298	0.518
79	0.314	N/A	2.212	N/A	127	0.628	0.045	4.344	0.522
80	0.320	N/A	2.212	N/A	128	0.632	0.046	4.361	0.525
81	0.324	N/A	2.221	N/A	129	0.637	0.046	4.366	0.528
82	0.327	N/A	2.222	N/A	130	0.641	0.049	4.369	0.530
83	0.329	N/A	2.227	N/A	131	0.643	0.050	4.372	0.530
84	0.333	N/A	2.236	N/A	132	0.644	0.052	4.435	0.534
85	0.336	N/A	2.243	N/A	133	0.645	0.054	4.523	0.550
86	0.339	N/A	2.262	N/A	134	0.647	0.054	4.524	0.554
87	0.343	N/A	2.271	N/A	135	0.651	0.054	4.525	0.590
88	0.347	N/A	2.284	N/A	136	0.658	0.055	4.531	0.616
89	0.350	N/A	2.299	N/A	137	0.663	0.055	4.534	0.639
90	0.356	N/A	2.308	N/A	138	0.666	0.056	4.542	0.653
91	0.358	N/A	2.326	N/A	139	0.668	0.059	4.553	0.662
92	0.360	N/A	2.330	N/A	140	0.670	0.061	4.554	0.683
93	0.363	N/A	2.331	N/A	141	0.672	0.061	4.554	0.696
94	0.367	N/A	2.344	N/A	142	0.675	0.061	4.554	0.708
95	0.370	N/A	2.347	N/A	143	0.678	0.063	4.554	0.721
96	0.372	N/A	2.355	N/A	144	0.681	0.064	4.554	0.739
97	0.376	N/A	2.395	N/A	145	0.684	0.065	4.554	0.742
98	0.388	N/A	2.451	N/A	146	0.686	0.066	4.554	0.743
99	0.396	N/A	2.508	N/A	147	0.688	0.067	4.554	0.745
99	0.396	N/A	2.508	N/A	147	0.690	0.068	4.554	0.748
100	0.405	N/A	2.580	N/A	148	0.690	0.068	4.554	0.748
101	0.410	N/A	2.660	N/A	149	0.692	0.069	4.554	0.751
102	0.411	N/A	2.749	N/A	150	0.694	0.070	4.554	0.762
103	0.411	N/A	2.913	N/A	151	0.696	0.071	4.556	0.789
104	0.413	N/A	3.162	N/A	152	0.698	0.072	4.556	0.789
105	0.421	N/A	3.170	N/A	153	0.700	0.073	4.565	0.794
106	0.428	N/A	3.197	N/A	154	0.702	0.073	4.612	0.799
107	0.430	N/A	3.288	N/A	155	0.704	0.074	4.834	0.805
108	0.455	N/A	3.419	N/A	156	0.706	0.077	5.702	0.842
109	0.459	0.015	3.587	0.168	157	0.708	0.079	5.841	0.990
110	0.462	0.017	3.595	0.173	158	0.710	0.082	6.170	1.038
111	0.464	0.021	3.640	0.237	159	0.712	0.082	6.670	1.357
112	0.466	0.024	3.740	0.266	160	0.716	0.086	7.425	1.455
113	0.468	0.024	3.868	0.280	161	0.750	0.095	8.379	1.546

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

162	0.784	0.107	9.648	1.824
163	0.805	0.115	10.918	2.746
164	0.840	0.122	12.157	3.073
165	0.853	0.127	12.731	3.603
166	0.874	0.159	12.831	4.505
167	0.903	0.186	12.892	4.952
168	0.910	0.189	12.932	5.254
169	0.916	0.200	13.702	5.730
170	0.914	0.220	14.139	6.051
171	0.919	0.236	14.964	6.333
172	0.931	0.247	15.704	6.490
173	0.948	0.257	16.253	6.796
174	0.983	0.267	16.907	7.205
175	1.018	0.283	17.655	8.151
176	1.027	0.295	18.020	8.230
177	1.035	0.312	18.349	8.584
178	1.051	0.318	18.671	8.800
179	1.074	0.323	18.972	8.947
180	1.084	0.337	19.228	8.913
181	1.099	0.345	20.123	9.122
182	1.121	0.350	20.405	9.532
183	1.132	0.359	20.754	10.236
184	1.152	0.387	21.684	10.862
185	1.161	0.398	21.955	10.996
186	1.168	0.400	22.650	11.206
187	1.175	0.402	22.989	11.514
188	1.181	0.405	23.535	11.894
189	1.188	0.418	23.876	12.019
190	1.203	0.429	24.018	12.170
191	1.219	0.442	24.464	12.517
192	1.233	0.457	24.685	12.598
193	1.251	0.473	24.931	12.625
194	1.255	0.487	25.188	12.653
195	1.258	0.501	25.468	12.777
196	1.265	0.510	25.627	12.906
197	1.280	0.512	25.746	12.989
198	1.293	0.514	25.850	13.060
199	1.301	0.516	25.974	13.165
200	1.313	0.518	26.141	13.242
201	1.324	0.527	26.225	13.412
202	1.332	0.540	26.338	13.662
203	1.341	0.547	26.547	13.773
204	1.357	0.553	26.818	13.942
205	1.375	0.559	27.052	14.090
206	1.392	0.563	27.393	14.224
207	1.408	0.567	27.501	14.426
208	1.422	0.571	27.632	14.438
209	1.433	0.575	27.803	14.776

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

210	1.443	0.579	27.953	14.907
211	1.453	0.595	28.205	14.916
212	1.463	0.605	28.543	15.014
213	1.468	0.614	28.997	15.221
214	1.470	0.622	29.000	15.472
215	1.474	0.627	29.005	15.555
216	1.478	0.638	29.081	15.652
217	1.481	0.643	29.281	15.969
218	1.484	0.643	29.483	16.028
219	1.487	0.645	29.734	16.375
220	1.490	0.651	29.803	16.487
221	1.493	0.655	29.821	16.524
222	1.504	0.663	29.847	16.578
223	1.522	0.671	29.862	16.684
224	1.547	0.675	29.873	16.755
225	1.549	0.684	30.008	16.770
226	1.562	0.694	30.126	16.805
227	1.574	0.701	30.127	16.865
228	1.579	0.702	30.177	16.960
229	1.584	0.708	30.208	16.960
230	1.584	0.708	30.314	16.962
231	1.590	0.709	30.323	16.988
232	1.596	0.710	30.325	17.072
233	1.598	0.710	30.368	17.094
234	1.604	0.711	30.411	17.184
235	1.610	0.712	30.416	17.187
236	1.612	0.712	30.428	17.188
237	1.613	0.712	30.430	17.189
238	1.614	0.713	30.452	17.241
239	1.615	0.716	30.488	17.370

b) Vehicles having composite hydrocarbon emission limitations of at least 1.25 grams per mile but less than 2.00 grams per mile, in Section 240. TABLE A or Section 240. TABLE B, shall use the hydrocarbon fast-pass standards contained in this subpart. Vehicles having and composite carbon monoxide emission limitations of at least 20.0 grams per mile but less than 30.0 grams per mile, in Section 240. TABLE A or Section 240. TABLE B, shall use the carbon monoxide fast-pass standards contained in this subpart:

Hydrocarbons		Carbon Monoxide	
Composite Phase 2		Composite Phase 2	
Second	30	1.502	N/A
31	0.247	N/A	N/A
32	0.253	N/A	N/A
33	0.258	N/A	N/A
34	0.263	N/A	N/A
35	0.268	N/A	N/A
36	0.277	N/A	N/A
	0.283	N/A	N/A

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

37	0.293	N/A	1.631	N/A
38	0.297	N/A	1.702	N/A
39	0.298	N/A	1.784	N/A
40	0.313	N/A	1.879	N/A
41	0.320	N/A	2.162	N/A
42	0.327	N/A	2.307	N/A
43	0.342	N/A	2.343	N/A
44	0.360	N/A	2.376	N/A
45	0.376	N/A	2.406	N/A
46	0.389	N/A	2.433	N/A
47	0.408	N/A	2.458	N/A
48	0.423	N/A	2.483	N/A
49	0.434	N/A	2.774	N/A
50	0.444	N/A	2.844	N/A
51	0.455	N/A	2.900	N/A
52	0.465	N/A	2.936	N/A
53	0.472	N/A	3.133	N/A
54	0.478	N/A	3.304	N/A
55	0.485	N/A	3.407	N/A
56	0.493	N/A	3.456	N/A
57	0.500	N/A	3.480	N/A
58	0.505	N/A	3.518	N/A
59	0.514	N/A	3.560	N/A
60	0.537	N/A	3.593	N/A
61	0.540	N/A	3.628	N/A
62	0.543	N/A	3.641	N/A
63	0.546	N/A	3.655	N/A
64	0.551	N/A	3.680	N/A
65	0.559	N/A	3.700	N/A
66	0.567	N/A	3.728	N/A
67	0.575	N/A	3.857	N/A
68	0.586	N/A	3.894	N/A
69	0.595	N/A	3.943	N/A
70	0.601	N/A	3.983	N/A
71	0.606	N/A	4.009	N/A
72	0.610	N/A	4.023	N/A
73	0.617	N/A	4.023	N/A
74	0.631	N/A	4.053	N/A
75	0.643	N/A	4.063	N/A
76	0.651	N/A	4.077	N/A
77	0.659	N/A	4.225	N/A
78	0.667	N/A	4.260	N/A
79	0.676	N/A	4.260	N/A
80	0.681	N/A	4.282	N/A
81	0.685	N/A	4.322	N/A
82	0.689	N/A	4.398	N/A
83	0.694	N/A	4.482	N/A
84	0.700	N/A	4.515	N/A

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

85	0.705	N/A	4.518	N/A
86	0.709	N/A	4.520	N/A
87	0.713	N/A	4.522	N/A
88	0.717	N/A	4.522	N/A
89	0.721	N/A	4.523	N/A
90	0.724	N/A	4.526	N/A
91	0.727	N/A	4.527	N/A
92	0.729	N/A	4.527	N/A
93	0.731	N/A	4.528	N/A
94	0.734	N/A	4.528	N/A
95	0.740	N/A	4.528	N/A
96	0.748	N/A	4.529	N/A
97	0.759	N/A	4.575	N/A
98	0.771	N/A	4.703	N/A
99	0.783	N/A	4.805	N/A
100	0.793	N/A	4.886	N/A
101	0.810	N/A	4.957	N/A
102	0.823	N/A	5.104	N/A
103	0.836	N/A	5.340	N/A
104	0.853	N/A	5.496	N/A
105	0.871	N/A	5.625	N/A
106	0.887	N/A	5.815	N/A
107	0.899	N/A	6.473	N/A
108	0.931	N/A	7.037	N/A
109	0.947	0.040	7.419	0.246
110	0.957	0.047	7.643	0.257
111	0.965	0.052	7.759	0.286
112	0.971	0.056	7.824	0.379
113	0.977	0.061	7.889	0.425
114	0.983	0.064	7.960	0.457
115	1.003	0.072	8.024	0.477
116	1.030	0.081	8.076	0.494
117	1.041	0.082	8.111	0.504
118	1.050	0.083	8.130	0.512
119	1.052	0.092	8.148	0.519
120	1.055	0.094	8.211	0.529
121	1.061	0.097	8.478	0.529
122	1.071	0.100	8.548	0.530
123	1.081	0.103	8.561	0.531
124	1.091	0.106	8.568	0.532
125	1.102	0.108	8.572	0.533
126	1.110	0.110	8.584	0.548
127	1.116	0.112	8.592	0.610
128	1.121	0.114	8.596	0.634
129	1.125	0.116	8.597	0.622
130	1.128	0.118	8.601	0.631
131	1.130	0.120	8.605	0.640
132	1.132	0.122	8.608	0.646

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

133	1.134	0.123	8.626	0.650	181
134	1.135	0.124	8.650	0.652	182
135	1.143	0.127	8.660	0.738	183
136	1.147	0.130	8.767	0.780	184
137	1.156	0.134	9.029	0.780	185
138	1.163	0.139	9.238	0.795	186
139	1.186	0.146	9.389	0.804	187
140	1.253	0.149	9.493	0.810	188
141	1.262	0.151	9.583	0.815	189
142	1.271	0.153	9.626	0.818	190
143	1.277	0.155	9.669	0.821	191
144	1.283	0.157	9.716	0.825	192
145	1.291	0.162	9.763	0.840	193
146	1.294	0.164	9.809	0.847	194
147	1.296	0.166	9.852	0.855	195
148	1.298	0.168	9.885	0.865	196
149	1.303	0.169	9.932	0.874	197
150	1.316	0.170	9.986	0.891	198
151	1.330	0.171	10.039	0.914	199
152	1.342	0.172	10.072	0.929	200
153	1.348	0.173	10.090	0.937	201
154	1.353	0.175	10.105	0.942	202
155	1.362	0.178	10.146	0.949	203
156	1.365	0.180	10.245	0.975	204
157	1.366	0.189	10.397	1.576	205
158	1.373	0.198	10.923	1.943	206
159	1.397	0.203	11.970	2.820	207
160	1.422	0.207	13.421	3.281	208
161	1.440	0.214	15.289	3.483	209
162	1.452	0.221	15.912	3.620	210
163	1.465	0.229	16.530	4.168	211
164	1.509	0.247	17.622	4.338	212
165	1.533	0.274	18.366	4.682	213
166	1.555	0.309	19.869	5.633	214
167	1.576	0.318	20.711	6.137	215
168	1.598	0.322	22.319	6.853	216
169	1.618	0.333	23.751	7.136	217
170	1.636	0.343	24.842	7.320	218
171	1.666	0.356	25.410	7.685	219
172	1.685	0.385	25.410	7.685	220
173	1.726	0.409	26.122	8.344	221
174	1.742	0.433	26.353	8.602	222
175	1.756	0.453	26.638	8.898	223
176	1.769	0.467	27.219	9.251	224
177	1.784	0.507	27.219	10.253	225
178	1.802	0.523	27.320	10.828	226
179	1.822	0.528	27.352	10.933	227
180	1.843	0.541	27.822	11.060	228

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

181	1.864	0.549	28.763	11.188
182	1.884	0.559	29.402	11.345
183	1.896	0.571	29.971	11.733
184	1.915	0.584	30.276	12.598
185	1.940	0.598	30.988	12.953
186	1.958	0.613	31.095	13.213
187	1.972	0.624	31.314	14.131
188	1.985	0.629	31.833	14.839
189	1.991	0.629	32.239	15.137
190	1.993	0.638	32.547	15.138
191	1.995	0.648	32.855	15.141
192	2.001	0.659	33.153	15.595
193	2.015	0.663	33.444	15.658
194	2.031	0.671	33.482	15.704
195	2.047	0.681	33.516	15.729
196	2.063	0.693	33.549	16.058
197	2.079	0.709	33.653	16.987
198	2.094	0.725	33.973	17.064
199	2.109	0.740	34.159	17.073
200	2.122	0.754	34.191	17.153
201	2.130	0.767	34.250	17.332
202	2.137	0.775	34.469	17.406
203	2.157	0.787	34.716	17.641
204	2.172	0.795	34.969	17.922
205	2.194	0.803	35.144	18.484
206	2.222	0.854	35.418	18.553
207	2.245	0.859	35.766	18.658
208	2.268	0.872	35.949	18.953
209	2.279	0.896	36.010	19.266
210	2.288	0.892	36.548	19.309
211	2.301	0.903	37.179	19.731
212	2.316	0.924	37.651	19.902
213	2.332	0.938	38.041	20.012
214	2.345	0.941	38.591	20.260
215	2.354	0.951	38.852	20.739
216	2.362	0.966	38.861	21.346
217	2.368	0.979	38.926	21.810
218	2.376	0.980	39.194	22.001
219	2.384	0.981	39.474	22.490
220	2.391	1.005	39.668	22.324
221	2.395	1.016	39.781	22.343
222	2.400	1.022	39.890	22.522
223	2.405	1.028	39.954	22.661
224	2.409	1.035	39.984	22.666
225	2.413	1.041	39.989	22.667
226	2.415	1.045	39.990	22.668
227	2.417	1.051	39.990	22.669
228	2.419	1.055	39.990	22.670

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

229	2.420	1.059	39.991	22.671
230	2.421	1.062	40.012	22.671
231	2.423	1.063	40.061	22.672
232	2.425	1.063	40.116	22.673
233	2.427	1.063	40.249	22.673
234	2.429	1.064	40.253	22.673
235	2.430	1.064	40.290	22.674
236	2.431	1.066	40.385	22.675
237	2.432	1.069	40.488	22.675
238	2.432	1.072	40.720	22.675
239	2.434	1.075	40.763	22.677

c) Vehicles having composite hydrocarbon emission limitations of 2.00 grams per mile or greater, in Section 240, TABLE A, or Section 240, TABLE B, shall use the hydrocarbon fast-pass standards contained in this subpart. Vehicles having and composite carbon monoxide emission limitations of 30.0 grams per mile or greater in Section 240, Table A or Section 240, Table B, shall use the carbon monoxide fast-pass standards contained in this subpart:

Second	Hydrocarbons		Carbon Monoxide	
	Composite Phase 2		Composite Phase 2	
30	0.407	N/A	3.804	N/A
31	0.415	N/A	3.985	N/A
32	0.423	N/A	4.215	N/A
33	0.436	N/A	4.440	N/A
34	0.451	N/A	4.579	N/A
35	0.464	N/A	4.688	N/A
36	0.468	N/A	4.749	N/A
37	0.475	N/A	4.783	N/A
38	0.487	N/A	4.813	N/A
39	0.506	N/A	4.876	N/A
40	0.530	N/A	5.104	N/A
41	0.549	N/A	5.217	N/A
42	0.569	N/A	5.383	N/A
43	0.588	N/A	5.571	N/A
44	0.609	N/A	5.888	N/A
45	0.621	N/A	6.199	N/A
46	0.636	N/A	6.245	N/A
47	0.649	N/A	6.318	N/A
48	0.666	N/A	6.418	N/A
49	0.679	N/A	6.540	N/A
50	0.696	N/A	6.690	N/A
51	0.712	N/A	6.875	N/A
52	0.727	N/A	7.029	N/A
53	0.745	N/A	7.129	N/A
54	0.760	N/A	7.259	N/A
55	0.776	N/A	7.222	N/A
56	0.797	N/A	8.017	N/A

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

57	0.814	N/A	8.249	N/A
58	0.826	N/A	8.425	N/A
59	0.837	N/A	8.563	N/A
60	0.849	N/A	8.686	N/A
61	0.862	N/A	8.804	N/A
62	0.872	N/A	8.916	N/A
63	0.887	N/A	9.025	N/A
64	0.895	N/A	9.138	N/A
65	0.903	N/A	9.250	N/A
66	0.925	N/A	9.354	N/A
67	0.933	N/A	9.457	N/A
68	0.945	N/A	9.575	N/A
69	0.959	N/A	9.728	N/A
70	0.970	N/A	9.938	N/A
71	0.980	N/A	10.140	N/A
72	0.988	N/A	10.222	N/A
73	0.997	N/A	10.261	N/A
74	1.022	N/A	10.278	N/A
75	1.037	N/A	10.290	N/A
76	1.051	N/A	10.715	N/A
77	1.064	N/A	10.790	N/A
78	1.075	N/A	10.844	N/A
79	1.087	N/A	10.921	N/A
80	1.097	N/A	11.010	N/A
81	1.105	N/A	11.090	N/A
82	1.114	N/A	11.136	N/A
83	1.136	N/A	11.136	N/A
84	1.160	N/A	11.165	N/A
85	1.182	N/A	11.191	N/A
86	1.201	N/A	11.205	N/A
87	1.217	N/A	11.211	N/A
88	1.233	N/A	11.211	N/A
89	1.248	N/A	11.211	N/A
90	1.262	N/A	11.211	N/A
91	1.271	N/A	11.220	N/A
92	1.279	N/A	11.294	N/A
93	1.287	N/A	11.332	N/A
94	1.295	N/A	11.355	N/A
95	1.302	N/A	11.383	N/A
96	1.309	N/A	11.410	N/A
97	1.316	N/A	11.433	N/A
98	1.325	N/A	11.516	N/A
99	1.339	N/A	11.820	N/A
100	1.356	N/A	12.104	N/A
101	1.365	N/A	12.344	N/A
102	1.378	N/A	12.781	N/A
103	1.397	N/A	13.472	N/A
104	1.420	N/A	14.405	N/A

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

105	1.445	N/A	14.808	N/A	153	2.127	0.503	23.337	4.047
106	1.470	N/A	14.965	N/A	154	2.138	0.505	23.425	4.067
107	1.491	N/A	15.121	N/A	155	2.152	0.515	23.534	4.081
108	1.506	N/A	15.372	N/A	156	2.168	0.522	23.652	4.116
109	1.517	0.151	15.530	1.113	157	2.186	0.527	23.739	4.251
110	1.528	0.159	15.687	1.213	158	2.205	0.537	24.606	5.099
111	1.542	0.172	16.018	1.344	159	2.224	0.549	25.615	5.383
112	1.559	0.186	16.527	1.399	160	2.242	0.568	26.073	6.362
113	1.578	0.199	16.810	1.520	161	2.268	0.596	28.496	7.926
114	1.594	0.207	16.961	1.640	162	2.308	0.610	29.772	8.429
115	1.605	0.216	17.120	1.684	163	2.352	0.648	31.056	9.201
116	1.615	0.229	17.135	1.693	164	2.406	0.677	33.351	10.825
117	1.625	0.235	17.249	1.786	165	2.421	0.699	34.890	12.291
118	1.642	0.240	17.451	2.007	166	2.435	0.720	35.937	13.366
119	1.670	0.245	17.509	2.084	167	2.470	0.738	37.012	14.428
120	1.694	0.261	17.605	2.179	168	2.501	0.767	37.892	15.318
121	1.705	0.277	17.734	2.264	169	2.537	0.828	39.028	15.699
122	1.717	0.277	18.049	2.328	170	2.571	0.855	41.379	16.475
123	1.732	0.287	18.447	2.375	171	2.625	0.869	42.033	17.158
124	1.747	0.298	18.592	2.437	172	2.657	0.885	42.432	17.532
125	1.763	0.308	18.657	2.543	173	2.683	0.900	42.742	17.965
126	1.779	0.316	18.796	2.593	174	2.701	0.941	43.399	18.242
127	1.795	0.322	18.952	2.641	175	2.717	0.979	43.895	18.283
128	1.810	0.329	19.137	2.663	176	2.732	1.002	44.227	18.480
129	1.823	0.338	19.329	2.672	177	2.756	1.025	44.926	19.576
130	1.835	0.346	19.519	2.676	178	2.781	1.047	45.256	20.015
131	1.845	0.354	19.707	2.683	179	2.811	1.065	45.553	20.203
132	1.854	0.356	19.882	2.817	180	2.853	1.089	45.753	20.433
133	1.862	0.357	19.905	2.992	181	2.898	1.109	46.210	21.025
134	1.870	0.359	20.049	3.111	182	2.946	1.133	47.017	21.882
135	1.883	0.362	20.460	3.234	183	2.988	1.158	48.185	22.204
136	1.888	0.364	20.746	3.304	184	3.023	1.184	48.741	22.859
137	1.896	0.368	21.068	3.310	185	3.057	1.209	49.462	23.533
138	1.911	0.378	21.380	3.320	186	3.076	1.222	50.313	24.281
139	1.928	0.391	21.748	3.354	187	3.101	1.231	51.285	25.078
140	1.949	0.402	22.046	3.436	188	3.120	1.239	52.076	25.276
141	1.969	0.408	22.348	3.443	189	3.136	1.254	52.857	25.578
142	1.982	0.422	22.397	3.452	190	3.151	1.278	52.857	25.578
143	1.999	0.428	22.407	3.490	191	3.163	1.300	53.067	25.985
144	2.011	0.432	22.417	3.522	192	3.209	1.313	53.777	26.153
145	2.022	0.434	22.922	3.588	193	3.237	1.340	54.242	26.592
146	2.035	0.439	22.951	3.600	194	3.263	1.367	54.489	27.087
147	2.043	0.450	22.976	3.616	195	3.263	1.367	54.601	27.456
148	2.049	0.460	23.017	3.627	196	3.302	1.387	54.912	27.805
149	2.063	0.467	23.073	3.636	197	3.338	1.407	55.588	28.070
150	2.085	0.472	23.161	3.676	198	3.372	1.417	56.266	28.590
151	2.104	0.480	23.218	3.882	199	3.390	1.432	56.617	28.914
152	2.117	0.491	23.253	4.011	200	3.428	1.446		

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

POLLUTION CONTROL BOARD

NOTICE OF PROPOSED AMENDMENTS

201	3.470	1.460	56.863	29.063
202	3.493	1.477	57.204	29.502
203	3.509	1.492	57.371	29.697
204	3.522	1.501	57.487	29.713
205	3.533	1.510	57.728	29.783
206	3.550	1.522	58.097	29.942
207	3.567	1.561	58.572	30.284
208	3.607	1.585	59.024	30.755
209	3.650	1.597	59.321	31.287
210	3.658	1.607	59.715	31.549
211	3.701	1.627	60.045	31.820
212	3.745	1.645	60.453	32.250
213	3.778	1.656	60.935	32.546
214	3.814	1.663	61.307	32.808
215	3.825	1.669	61.666	33.060
216	3.835	1.674	62.148	33.204
217	3.844	1.685	62.532	33.341
218	3.853	1.700	62.546	33.414
219	3.864	1.704	62.559	33.514
220	3.874	1.706	62.570	33.640
221	3.891	1.709	62.846	33.692
222	3.928	1.711	63.097	33.711
223	3.966	1.714	63.150	33.733
224	4.008	1.718	63.150	33.770
225	4.010	1.721	63.150	33.796
226	4.012	1.723	63.150	33.810
227	4.016	1.726	63.150	33.821
228	4.019	1.729	63.150	33.839
229	4.057	1.731	63.150	33.865
230	4.065	1.733	63.150	33.894
231	4.071	1.735	63.150	33.918
232	4.073	1.743	63.150	33.944
233	4.075	1.749	63.150	33.985
234	4.077	1.753	63.153	34.014
235	4.079	1.757	63.159	34.032
236	4.081	1.762	63.173	34.051
237	4.083	1.767	63.193	34.067
238	4.084	1.772	63.214	34.079
239	4.085	1.776	63.233	34.085

(Source: Amended at 24 Ill. Reg. _____, effective _____)

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Property Tax Code
- 2) Code Citation: 86 Ill. Adm. Code 110
- 3) Section Numbers: Proposed Action:
110.112 New Section
- 4) Statutory Authority: 35 ILCS 200
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking implements the procedures for the assessment of Section 515 low-income housing projects established by Public Act 91-0651, effective January 1, 2000, as amended by Public Act 91-0884, effective June 30, 2000.

The rule provides that a Section 515 low-income housing project will be assessed at 33 1/3% of the fair market value of its economic productivity to the owner, using a vacancy rate of not more than 5% capitalized at typical market rates for similar, non-subsidized property.

The rule also provides that the property must be certified as a Section 515 low-income housing project and that the owner must submit the certificate and annual financial statement to the local assessment office for the property to be assessed in the manner provided by this rulemaking.

The assessment procedures provided in this rulemaking only apply to Section 515 low-income housing projects that are located in rural communities with populations under 20,000 that are in counties with populations of not more than 200,000 that classify property for the purpose of taxation.
- 6) Will this proposed amendment replace an emergency rulemaking currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this proposed amendment contain incorporations by reference? No
- 9) Are there any other proposed amendments pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this notice to:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

George Logan
Associate Counsel
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794
Phone: (217) 782-6996

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: This rule will affect small businesses that own Section 515 low-income housing projects located in small, rural communities.

B) Reporting, bookkeeping or other procedures required for compliance: The owner of a Section 515 low-income housing project will be required to obtain a Section 515 low-income housing project certificate and submit it and the most recent annual financial statement for the project to the local assessment office for the property to be assessed as provided in this rulemaking.

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 2000

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

TITLE 86: REVENUE

CHAPTER I: DEPARTMENT OF REVENUE

PART 110

PROPERTY TAX CODE

Section	
110.101	Railroads
110.105	Non-carrier Real Estate of Railroads
110.110	Procedures for Assessment of Pollution Control Facilities and Low Sulphur Dioxide Emission Coal Fueled Devices
110.112	Procedures for Assessment of Section 515 Low-income Housing Projects
110.115	Non-Homestead Exemption Proceedings
110.125	Oil Right Lessees and Producers
110.130	Reports to be Filed with the Department
110.135	Hearings and Records of Chief County Assessment Officers
110.140	Review of Assessments - Counties of 3,000,000 or More
110.141	Board of Review Procedures and Records - Counties of Less than 3,000,000
110.145	Farmland Factor Review Procedures (Repealed)
110.150	Practice and Procedure for Hearings on Property Tax Matters Before the Illinois Department of Revenue
110.155	Records Reproduction
110.160	Course and Examination Requirements for Board of Review Members
110.162	Multi-township Assessment Districts
110.165	Township and Multi-township Assessor Qualifications
110.170	Farmland Assessment Review Procedures
110.175	Assessors' Bonus
110.180	Equalization by Chief County Assessment Officers in Counties with Fewer Than 3,000,000 Inhabitants
110.190	Supervisor of Assessments Examination
110.192	Property Tax Extension Limitation
	Property Tax Extension Limitation Law Notification and Determination Requirements After Referendum Under Section 18-213 or 18-214 of the Property Tax Code

ILLUSTRATION A State of Illinois Board of Review Course and Exam Requirements

AUTHORITY: Implementing the Property Tax Code [35 ILCS 200] and authorized by Section 39b35 of the Civil Administrative Code of Illinois [20 ILCS 2505/39b35].

SOURCE: Adopted June 1, 1940; amended at 5 Ill. Reg. 2999, effective March 11, 1981; amended at 5 Ill. Reg. 5886, effective May 26, 1981; amended at 6 Ill. Reg. 9707, effective July 27, 1982; amended at 6 Ill. Reg. 14564, effective November 5, 1982; codified at 7 Ill. Reg. 5886; amended at 8 Ill. Reg. 24285, effective December 5, 1984; amended at 9 Ill. Reg. 159, effective December 26,

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

1984; amended at 9 Ill. Reg. 12022, effective July 24, 1985; amended at 10 Ill. Reg. 11284, effective June 16, 1986; amended at 10 Ill. Reg. 15125, effective September 2, 1986; amended at 11 Ill. Reg. 19675, effective November 23, 1987; amended at 11 Ill. Reg. 20972, effective December 11, 1987; amended at 12 Ill. Reg. 14346, effective August 29, 1988; amended at 13 Ill. Reg. 6803, effective April 12, 1989; amended at 13 Ill. Reg. 7469, effective May 2, 1989; amended at 15 Ill. Reg. 3522, effective February 21, 1991; emergency rule added at 15 Ill. Reg. 14297, effective October 1, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 2624, effective February 4, 1992; emergency amendment at 17 Ill. Reg. 22584, effective January 1, 1994, for a maximum of 150 days; emergency expired May 30, 1994; amended at 18 Ill. Reg. 15618, effective October 11, 1994; emergency amendment at 19 Ill. Reg. 2476, effective February 17, 1995, for a maximum of 150 days; emergency expired July 16, 1995; emergency amendment at 19 Ill. Reg. 3555, effective March 1, 1995, for a maximum of 150 days; emergency expired July 28, 1995; emergency amendment at 20 Ill. Reg. 7540, effective May 21, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 13611, effective October 3, 1996; amended at 20 Ill. Reg. 13993, effective October 3, 1996; emergency amendment at 20 Ill. Reg. 15613, effective November 22, 1996, for a maximum of 150 days; emergency expired on April 21, 1997; amended at 21 Ill. Reg. 6921, effective May 22, 1997; emergency amendment at 23 Ill. Reg. 9909, effective August 2, 1999, for a maximum of 150 days; emergency expired December 29, 1999; amended at 23 Ill. Reg. 14759, effective December 8, 1999; amended at 24 Ill. Reg. 2428, effective January 25, 2000; amended at 24 Ill. Reg. _____, effective _____.

Section 110.112 Procedures for Assessment of Section 515 Low-income Housing Projects

a) Definitions

"Section 515 low-income housing project" means a rental apartment facility developed and managed under a United States Department of Agriculture Rural Rental Housing Program designed to provide affordable housing to low to moderate income families as defined in 42 USC 1437, and seniors in rural communities with populations under 20,000, that receives a subsidy in the form of a 1% loan interest rate and a 50-year amortization of the mortgage, that would not have been built without a Section 515 interest credit subsidy, and where the owner of the project is limited to an annual profit of an 8% return on a 5% equity investment. [35 ILCS 200/10-240]

"Section 515 low-income housing project certificate" means a document issued to the owner of the property by the State Director of the United States Department of Agriculture, Rural Development Office, certifying that the property described in that document qualifies for assessment as a Section 515 low-income housing project.

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

- b) Assessment of Section 515 Low-income Housing Projects Beginning on January 1, 2000, except in counties of more than 200,000 that classify property for the purpose of taxation, local property assessment officers shall assess property that has been certified for the year of assessment as a Section 515 low-income housing project in accordance with Section 10-245 of the Property Tax Code [35 ILCS 200/10-245] and the method of valuation provided in this part. [35 ILCS 200/10-250]
- c) Certification
For a rental apartment facility to be certified as a Section 515 low-income housing project, the owner must file an application for a Section 515 low-income housing project certificate with the State Director of the United States Department of Agriculture, Rural Development Office, in the form and manner prescribed in regulations issued by that office. If the application is approved, the office will issue to the owner a Section 515 low-income housing project certificate for that property. [35 ILCS 200/10-250]
Submit a certificate to Local Assessment Office
For a Section 515 low-income housing project to be assessed under the method of valuation provided under subsection (e) of this Section, the owner must submit by the 1st day of April to the local assessment office a copy of the Section 515 low-income housing project certificate issued to him for that property, a copy of the most recent annual financial statement for that property filed with and approved by the United States Department of Agriculture, Rural Development Office, and any other information the local assessment office may request. [35 ILCS 200/10-250]
- e) Method of Valuation
1) Local assessment officers shall assess for local property tax purposes property that has been certified for the year of assessment as a Section 515 low-income housing project at 33 1/3% of the fair market value of its economic productivity to the owner. [35 ILCS 200/10-245]
2) The fair market value of the property's economic productivity to the owner shall be determined by considering the actual or probable net operating income attributable to the project, using a vacancy rate of not more than 5%, capitalized at typical market rates for similar, non-subsidized property. [35 ILCS 200/10-245]
3) In determining the net operating income attributable to the property, property taxes paid cannot be included as an operating or maintenance expense or as an expense of any kind, and must be deducted if included as an expense in the financial statement, and income and expense items not pertaining to the real property itself cannot be considered in determining net operating income for purposes of valuation under this part.
4) For the purpose of determining the interest rate to be used in developing the normal market value capitalization rate for a Section 515 low-income housing project, local assessment officers

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

shall use an interest rate that reflects the prevailing cost of cash for other types of commercial real estate in the geographic market area in which the Section 515 low-income housing project is located. [35 ILCS 200/10-245]

- 5) Local assessment officers shall use the effective tax rate as a component of the overall market capitalization rate for purposes of valuation under this Part.

f) Cancellation or Revocation of Certificate

In the event that a Section 515 low-income housing project certificate is cancelled or revoked, the local assessment officer shall assess the property described in the cancelled or revoked certificate for the applicable assessment year in accordance with the assessment procedures used for other commercial property in the county.

g) Address

The address to which an owner may submit an application for certification of property as a Section 515 low-income housing project is: State Director, Rural Development Office, United States Department of Agriculture, 1817 South Neil Street, Champaign, Illinois 61820.

(Source: Added at 24 Ill. Reg. _____, effective _____)

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Arthur F. Quern Information Technology Grant Program
2) Code Citation: 23 Ill. Adm. Code 2740

Section Numbers:	Proposed Action:
2740.10	New Section
2740.20	New Section
2740.30	New Section
2740.40	New Section

- 4) Statutory Authority: Implementing Section 65-57 of the Higher Education Student Assistance Act [110 ILCS 947/65-57] and authorized by Sections 20(f) and 65-57 of the Higher Education Student Assistance Act [110 ILCS 947/20(f) and 65-57].

- 5) A Complete Description of the Subjects and Issues Involved: These proposed rules govern the administration of the new Arthur F. Quern Information Technology Grant Program. The rulemaking sets forth the applicant eligibility requirements, program procedures and institutional procedures.

- 6) Will these proposed rules replace an emergency rule currently in effect?
No

- 7) Does this rulemaking contain an automatic repeal date? No

- 8) Do these proposed rules contain incorporations by reference? No

- 9) Are there any other rules pending on this Part? No

- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)] and does not necessitate a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this notice to:

Mr. Thomas A. Breyer
Deputy Program Officer
Illinois Student Assistance Commission
1755 Lake Cook Road
Deerfield IL 60015
847/948-9500
tbreyer@isac.org

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED RULES

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance:
None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 2000

The full text of the Proposed Rules begins on the following page:

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED RULES

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER XIX: ILLINOIS STUDENT ASSISTANCE COMMISSION

PART 2740

ARTHUR F. QUERN INFORMATION TECHNOLOGY GRANT PROGRAM

Section	Summary and Purpose
2740.10	Applicant Eligibility
2740.20	Program Procedures
2740.30	Institutional Procedures
2740.40	

AUTHORITY: Implementing Section 65.57 of the Higher Education Student Assistance Act [110 ILCS 947/65.57] and authorized by Sections 20(f) and 65.57 of the Higher Education Student Assistance Act [110 ILCS 947/20(f) and 65.57].

SOURCE: Adopted at 24 Ill. Reg. _____, effective _____.

Section 2740.10 Summary and Purpose

- a) The Arthur F. Quern Information Technology Grant Program provides grant assistance for retraining in information technology (IT) fields to qualified students pursuing additional certification or a degree in an IT field at a degree-granting institution.
- b) This Part establishes rules that govern the Arthur F. Quern Information Technology Grant Program. Additional rules and definitions are contained in General Provisions, 23 Ill. Adm. Code 2700.

Section 2740.20 Applicant Eligibility

A qualified applicant shall be:

- a) a United States citizen or eligible noncitizen;
- b) a resident of Illinois;
- c) a high school graduate or a person who has received a General Educational Development (GED) Certificate;
- d) enrolled, or accepted for enrollment, on at least a half-time basis in an eligible program of undergraduate information technology related study, as determined by the Illinois Board of Higher Education (IBHE), at an ISAC-approved degree-granting institution of higher learning; and
- e) pursuing additional certification or a degree in an information technology field.

Section 2740.30 Program Procedures

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED RULES

- a) All applicants must complete and file the form that the U.S. Department of Education (ED) designates as an application for federal student financial aid for the purpose of determining the Expected Family Contribution (EFC) that is used as a selection criteria for this award. (See Section 483 of the Higher Education Act of 1965, as amended (20 USC 1070a).)
- b) A completed ISAC application for a Quern IT Grant must be postmarked on or before May 1 immediately preceding the academic year for which the grant is being requested, in order to receive priority consideration for an award.
- c) If the student section of an ISAC application is incomplete, ISAC will notify the applicant. The applicant will then have an opportunity to furnish the missing information; however, the application will be considered for processing as of the date when the application is complete and received at ISAC's Deerfield office.
- d) ISAC shall make renewal applications available to all qualified students who received a Quern IT Grant during the preceding academic year.
- e) ISAC shall select the recipients from among qualified applicants who filed timely applications based on a combination of the following criteria:
- 1) Expected Family Contribution (EFC), from the lowest to the highest;
 - 2) Students who have received a baccalaureate degree shall receive priority consideration;
 - 3) Recipients of assistance under the Quern IT Grant Program during the previous academic year shall receive first priority consideration provided the student:
 - A) maintains his or her status as a qualified applicant, as outlined in Section 2740.20 of this Part, Applicant Eligibility;
 - B) maintains satisfactory academic progress as determined by the institution; and
 - C) has submitted an application on a timely basis.
 - f) If all other criteria are equal, priority consideration will be given to the qualified applicant who submitted his or her completed application to ISAC on the earliest date.
 - g) Grant funds are applicable toward two semesters/three quarters of half-time and full-time study within an academic year.
 - h) The total number of grants awarded in a given fiscal year is contingent upon available funding.
 - i) To the extent necessary to administer this program within the limits of the State appropriation, the Commission may adjust the priority consideration dates and factors established by this Section.
 - j) ISAC shall publish guidelines for the awarding of Quern IT Grants.
 - k) Notice of eligibility shall be sent by ISAC to each qualified applicant who is selected to receive a Quern IT Grant. A notice will be sent by ISAC to each qualified applicant who is not selected to

ILLINOIS STUDENT ASSISTANCE COMMISSION

NOTICE OF PROPOSED RULES

- receive a grant.
- 1) Renewal recipients may receive a subsequent award even if their program is no longer on the list of approved programs.

Section 2740.40 Institutional Procedures

- a) The institution shall submit eligibility information for qualified applicants in sufficient time for ISAC to make award announcements.
- b) The institution shall submit a certification of eligibility for qualified applicants with its request for payment.
- c) Grant Amount
- 1) Quern IT Grants are applicable toward tuition and fees and other educational costs included in the student's cost of attendance, as defined at Section 472 of the Higher Education Act of 1965, as amended (20 USC 108711).
 - 2) The annual grant amount shall be computed by the institution and shall be the lesser of:
 - A) \$2500, or
 - B) the student's cost of attendance.
 - 3) A qualified recipient may be eligible to receive the Quern IT Grant for up to two academic years.
 - 4) If the recipient does not qualify for the maximum \$2500 grant during the student's first academic year, the excess award amount shall not be carried forward to the award amount for a subsequent academic year.
 - 5) The total amount of Quern IT Grant assistance awarded to a qualified applicant in a given academic year, when added to the other financial aid available to the qualified applicant for that year, cannot exceed the cost of attendance.
 - 6) A qualified applicant may receive grant assistance under the Monetary Award Program only up to the amount by which the qualified applicant's cost of attendance exceeds the amount of the Quern IT Grant.
 - d) Funds shall be remitted by ISAC to institutions on behalf of the recipients.
 - e) Upon receipt of grant funds, the institution shall verify the recipient's enrollment status for the term for which the award was intended. If enrolled, the institution may credit the grant funds to the recipient's account for expenses due and payable. The balance of the disbursement shall be released to the recipient.
 - f) Upon receipt of the grant funds, if the recipient has withdrawn from enrollment for the terms for which the award was intended, the recipient may still receive payment up to the cost of attendance incurred.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Standards of Service for Local Exchange Telecommunications Carriers

2) Code Citation: 83 Ill. Adm. Code 730

3) Section Numbers: Adopted Action:

730.100 Amendment

730.105 Amendment

730.110 New Section

730.300 Amendment

730.310 Amendment

730.315 Repealed

730.335 Amendment

730.405 Amendment

730.430 Amendment

730.445 Amendment

730.505 Amendment

730.510 Amendment

730.515 Amendment

730.520 Amendment

730.525 Amendment

730.530 Repealed

730.535 Amendment

730.540 Amendment

730.605 Repealed

730.705 Amendment

730.725 Repealed

4) Statutory Authority: Implementing Section 8-301 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/8-301 and 10-101].

5) Effective Date of Amendments: September 1, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: February 25, 2000 at 24 Ill. Reg. 2884

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version:

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Section 730.105: Add definition of "InterMSA".

Section 730.510(d)(4): Change "Number" to "Total number".

Section 730.510(d): Delete "on an as needed basis".

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will these amendments replace an emergency amendment currently in effect?
No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: These amendments are designed to treat the changes in the law and in the provision of local exchange service since this Part was last amended in 1991. The amendments make applicable to competitive local exchange telecommunications carriers the requirements of this Part. The amendments also include a waiver provision. Obsolete provisions have been repealed. The changes include construction, grades of service, network interface, call records, testing, and standards of quality of service.

16) Information and questions regarding these adopted amendments shall be directed to:

Conrad S. Rubinkowski
Office of General Counsel
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, IL 62701
(217)785-3922

The full text of the adopted amendments begins on the next page:

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER f: TELEPHONE UTILITIES

PART 730

STANDARDS OF SERVICE FOR LOCAL EXCHANGE
TELECOMMUNICATIONS CARRIERS

SUBPART A: GENERAL

Section
730.100 Application of Part
730.105 Definitions
730.110 Waiver

SUBPART B: RECORDS AND REPORTS

Section
730.200 Preservation of Records

SUBPART C: ENGINEERING

Section
730.300 Construction
730.305 Maintenance of Plant and Equipment
730.310 Grade of Service
730.315 Interoffice Trunks (Repealed)
730.320 Network Operation
730.325 Emergency Service
730.330 Construction Work Near Utility Facilities
730.335 Network Interface

SUBPART D: CALL DATA, INSPECTIONS, AND TESTS

Section
730.400 Provisions for Testing
730.405 Call Data Records
730.410 Call Data Reading Interval
730.415 Call Data Recording Equipment and Test Facilities
730.420 Call Data Recording Equipment Requirements
730.425 Initial Test
730.430 As-Found Tests
730.435 Routine Tests
730.440 Request Tests
730.445 Referee Tests
730.450 Test Records

SUBPART E: STANDARDS OF QUALITY OF SERVICE

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

Section
730.500 Adequacy of Service
730.505 Operator Handled Calls
730.510 Answering Time
730.515 Central Office Administrative Requirements
730.520 Interoffice Trunks
730.525 Transmission Requirements
730.530 Coin Telephone Service (Repealed)
730.535 Interruptions of Service
730.540 Installation Requests

SUBPART F: SAFETY

Section
730.600 Safety Program
730.605 Accident Reports (Repealed)

SUBPART G: BOUNDARIES

Section
730.700 Map Requirements
730.705 Map Specifications
730.710 Application for Certificate
730.715 Service Outside Exchange Boundaries
730.720 Map Maintenance
730.725 District Boundaries (Repealed)

AUTHORITY: Implementing Section 8-301 and authorized by Section 10-101 of the Public Utilities Act (22 ILCS 5/8-301 and 10-101).

SOURCE: Filed November 6, 1970; amended at 7 Ill. Reg. 2147, effective February 4, 1983; codified at 8 Ill. Reg. 12191; Part repealed and new Part adopted at 15 Ill. Reg. 16060, effective November 1, 1991; amended at 24 Ill. Reg. 13861, effective SEP 1 2000.

SUBPART A: GENERAL

Section 730.100 Application of Part

This Part shall apply to all local exchange carriers offering or providing either competitive or noncompetitive telecommunications services as defined in Sections 13-209 and 13-210 of the Universal Telephone Service Protection Law of 1985 ("Law") ~~4111-Rev-Stat-1989; ch-111--2437--Part~~ [220 ILCS 5/13-209, 13-210]. This Part shall apply to the relationship between a serving local exchange carrier and its end user customer only. This Part shall not be applicable to the relationship between a serving local exchange carrier subject to this Part and any local exchange carrier that provides facilities or services to the serving local exchange carrier for provision to its end user.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

customers. A local exchange carrier not responsible for the provision and maintenance of a specific service as covered by this party shall not be subject to the rules that apply to such service.

(Source: Amended at 24 Ill. Reg. 18661, effective 3/1/2000.)

Section 730.105 Definitions

As used in this Part, the following terms shall have these definitions:

"Abandoned call" means a call that has been offered to a communications network or telephone system that was terminated by the person originating the call before it was answered by the entity being called.

"Access line" means the connecting facility between a customer's premises network interface device and the local exchange carrier's facility that provides access to the switching network for local exchange and interexchange telecommunications service. This includes the network interface or equivalent, the outside plant facilities, the office frame and frame wiring and the office line termination.

"Analog" means a continuous electrical signal that carries information by means of variations in its amplitude or frequency. The electrical signal being transmitted varies in direct relation to the signal generated by the source.

"Answer time" means a measurement from the point a call is placed in the answering queue.

"Application" means a verbal or written request for a telecommunications service.

"Assistance calls" means calls in which the operator provides assistance or instructions to the customer. Examples: rate quotes, credit requests, trouble reports, dial assistance, and dialing instructions.

"Business office" means those offices of the company where calls are answered and made. A business office typically employs company representatives to assist customers for order entry and lookup on customers' orders and account records through the use of a computerized system.

"Busy hour" means the two consecutive half-hours each day during which the greatest volume of traffic is handled in the central office.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

"Busy season" means the two consecutive weeks during which the greatest volume of traffic is handled in the central office.

"Busy tone" means an audible signal indicating a call cannot be completed because the called access line is busy. The tone is applied 60 times per minute.

"Call data" means the recorded information necessary to measure and bill each call.

"Calls" means customers' messages attempted.

"Central office" means the site where switching equipment is located. A central office, also called an end office, is the switching office where individual subscribers' access lines appear. It houses the equipment that receives calls transmitted on the local loop and routes the call over the switched network either directly to the person called, if the call is placed to a location served by the same local central office, or to another central office, if the call is placed to a customer served by a different central office. Each central office serves local loops in an exclusive geographic area.

"Certificate of Service Authority" means the authorization by the Illinois Commerce Commission ("Commission") granting a local exchange carrier the right to provide telecommunications services within a specified geographical area.

"Channel" means a single path between two or more points provided for transport of user information and/or signaling for a communications service.

"Connecting company" means a corporation, association, partnership or individual (other than a company affiliated interest) that owns or operates central offices or similar switching facilities and interchanges traffic directly or indirectly with the local exchange carriers.

"Customer" means any person, building owner, firm, partnership, corporation, municipality, cooperative, organization, governmental agency, etc., provided with local exchange carrier telecommunications services as defined in Section 13-204 of the Law [220 ILCS 5/13-204] (1111-Revs-Stat-1989-CH-111-2/3-par-19-904). "Customer" may also refer to as "end user."

"Customer trouble report" means any verbal or written report relating to difficulty or dissatisfaction with the operation of regulated telecommunications services. One report shall be counted for a verbal or written report received. When several items are reported by one

ILLINOIS COMMERCE COMMISSION
NOTICE OF ADOPTED AMENDMENTS

customer at the same time, and the group of troubles so reported is clearly related to a common cause, they are counted as one report.

"dBm" means a measure of the interfering effect of noise.

"Decibel" or "db" means a standard unit used for expressing a transmission signal gain or loss.

"Dial tone" means an audible tone sent from an automatic switching system to a customer to indicate the equipment is ready to receive dial signals.

"Dial tone first" means coin telephone service that allows a customer to obtain a dial tone before money is deposited into the coin telephone.

"Digital" means a signal which carries information by discrete changes in its parameters. For digital transmission of analog information, the incoming voice, data, or video signals are sampled periodically and digitally coded for transport through the network.

"Direct Distance Dialing" or "DDD" means the automatic establishment of toll calls in response to signals from the dialing device of the originating customer.

"Distributing system" means that part of the outside cable plant connecting the central office to the customer network interface at the customer's premises.

"District" means an area of an exchange which is--the basis--for--the determination of--usage rates within Market-Service Areas (MSAs)--(see Section 13-208 of the Law)--and of foreign-district service and foreign central-office service--mileage measurement--in MSAs.

"End user" means any person, building owner, firm, partnership, corporation, municipality, cooperative, organization, governmental agency, etc., provided with local exchange carrier telecommunications services for consumption, not for resale, as defined in Section 13-204 of the Law [220 ILCS 5/13-204]. "End user" may also be referred to as "customer".

"Exchange area" means a unit established by a local exchange carrier and approved by the Commission for the administration of telecommunications service in a specified geographical area. It may consist of one or more central offices together with associated plant used in furnishing telecommunications services in that area. Exchange areas are identified on exchange boundary maps on file with the Commission.

ILLINOIS COMMERCE COMMISSION
NOTICE OF ADOPTED AMENDMENTS

"Foreign exchange service" means a classification of exchange services whereby customers may be provided a telecommunications service from a local exchange other than the one from which they would normally be served.

"Information call" means a call in which a customer will be connected to an information bureau by dialing the proper service code or number and will be provided the directory number of the customer whom he desires to call, provided that the customer's number to be called is or will be published or listed in the information records.

"Intercept service" means a service arrangement provided by the local exchange carrier whereby calls placed to a disconnected or discontinued telephone number are intercepted and the calling party given such information as the called telephone number has been disconnected, discontinued, or changed to another number, or that calls are being received by another telecommunications line.

"InterMSA" means those calls originating in one Market Service Area (MSA) but terminating in another MSA. See Section 13-208 of the Public Utilities Act [220 ILCS 5/13-208].

"Interoffice trunk" means a communication path between two central offices.

"Line" means the conductor or conductors, supporting circuit equipment, and structures extending between customer network interfaces and central offices, or between central offices, whether they be in the same or different communities.

"Local exchange carrier" means a telecommunications carrier certificated by the Commission to provide intra-exchange and/or inter-exchange service within the same MSA.

"Local exchange service" means the same as "local exchange telecommunications service" as defined in Section 13-204 of the Law.

"Local exchange service area" means the area where telecommunications service is furnished to customers under a specific schedule of rates and without toll charges. A local exchange service area may include one or more exchange areas or portions of exchange areas.

"Local message" means a completed call between customers served by the same central office or between customers served by two different central offices as defined by and in accordance with tariffs.

"Local loop" means a channel between a customer's network interface and its serving central office. The most common form of loop, a pair

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

of wires, is also called a line.

"Local usage charge" means the charge that applies to a call defined as a "local message".

"Map" means a drawing showing a geographical area in which a local exchange carrier furnishes telecommunications services.

"Message" means a completed customer call.

"Network" means the aggregate of transmission systems and switching systems. It is an arrangement of channels, such as loops, trunks, and associated switching facilities.

"Network interface" means the point of termination on the customer premises at which the local exchange carrier's responsibility for the provision and maintenance of network channel or line service ends. The network interface is part of the network and the order of appearance of central office lines on it is determined solely by the local exchange carrier.

"Network service" means a telecommunications service that links two or more discrete channels for the purpose of creating a point-to-point connection.

"Noise to Ground (Ng)" means the noise measured between ground and the tip and ring conductors. The customer does not hear the noise to ground, but the amount of noise to ground affects the amount of noise metallic which a customer hears.

"Noise Metallic (Nm)" means the noise measured across the tip and ring of a circuit and is the noise that the customer hears.

"Operator number identification" means a service provided by an intercept operator on calls that originate from a telecommunications office that is not equipped for automatic identification of the called number.

"Outside plant" means the telecommunications equipment and facilities installed on, along, over, or under streets, alleys, highways, or on private rights-of-way between the central office and customer locations or between central offices.

"Party line service" is a service offering where two or more unaffiliated end user customers share the same line and telephone number.

"Premises" means the space occupied in a single local exchange area by

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

a customer in a building or in adjoining buildings not separated by a public thoroughfare or in a public office building where the customer's office space is all contiguous.

"Public telephone service" means one-party access line service equipped with a coin collecting and/or calling-card only telephone instrument installed for the use of the general public in locations where the general public has access to these telephones.

"Repair office" means an office to handle customers' reported telephone facility problems. Customers may call to request trouble verification tests, initiate trouble reports and obtain information on the status of open trouble reports.

"Reporting entity" means a unit established by the local exchange carrier for the purpose of administering the customer service operations established by this Part.

"Telecommunications service" means all regulated communication service provided by local exchange carriers.

"Toll call" means a completed message between customers in different exchanges for which message toll rates are applicable.

"Traffic" means call volume based on number and duration of messages.

"Transmission" means the process of sending information from one point to another.

"Trunk" means a transmission path between switching units, switching centers, and toll centers.

"Working line" means an active access line or channel.

(Source: Amended at 24 Ill. Reg. 13861, effective

11-1-2000)

Section 730.110 Waiver

The Commission, on application of a company, customer, applicant, or user or on its own motion, may grant a temporary or permanent waiver from this Part in individual cases where the Commission finds that:

- a) The provision from which the waiver is granted is not statutorily mandated;
- b) No party will be injured by the granting of the waiver; and
- c) The rule from which the waiver is granted would, in the particular case, be unreasonable or unnecessarily burdensome.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

(Source: Added at 24 Ill. Reg. 13861, effective SEP 1 2000)

SUBPART C: ENGINEERING

Section 730.300 Construction

- a) For projects in which construction starts after January 1, 1999, each local exchange carrier shall place a minimum of 80% of its constructed cable facilities (measured in sheath miles) underground.
- a) Each local exchange carrier shall place a minimum of 80% of all newly constructed outside cable plant facilities (measured in sheath miles) underground.
- b) The telecommunications outside plant shall be designed, constructed, maintained, and operated in accordance with the provisions of 83 Ill. Adm. Code 305 and 83 Ill. Adm. Code 265.

(Source: Amended at 24 Ill. Reg. 13861, effective SEP 1 2000)

Section 730.310 Grade of Service

No local exchange carrier shall offer party line service connect more than one customer per access line.

(Source: Amended at 24 Ill. Reg. 13861, effective SEP 1 2000)

Section 730.315 Interoffice Trunks (Repealed)

Interoffice trunks or toll circuits shall be metallic, fiber-optic, or microwave.

(Source: Repealed at 24 Ill. Reg. 13861, effective SEP 1 2000)

Section 730.335 Network Interface

- a) The network interface for a residential customer shall be located in or on a structure owned, rented, or leased by the customer, in which the customer resides.
- b) The network interface for business customers shall be located in or on structures owned, rented, or leased by the customer, in which the customer is conducting business. The demarcation point shall be located at the minimum point of penetration to the building, normally within 25 feet. Deviation from this location must be mutually agreeable to the building owner and the telecommunications provider.
- c) Network interfaces shall not be located on fence posts, utility poles,

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- d) Network interfaces for temporary services or serving trailers, boats, or customer-owned pay telephones shall be located on structures provided by the customer or on a utility pole.

(Source: Amended at 24 Ill. Reg. 13861, effective SEP 1 2000)

SUBPART D: CALL DATA, INSPECTIONS, AND TESTS

Section 730.405 Call Data Records

Recording devices, when used in connection with telecommunications service to collect call data from which the customer's bills are prepared, shall show:

- a) Called customer's telephone number (letter- or 10-digits);
- b) Calling customer's telephone number (7-digits);
- c) Date;
- d) Time of day; and
- e) Duration of message.

(Source: Amended at 24 Ill. Reg. 13861, effective SEP 1 2000)

Section 730.430 As-Pound Tests

All call data recording devices tested in accordance with this part for either routine maintenance or a complaint shall be tested in their normal operating location and wiring mode prior to removal or adjustment.

(Source: Amended at 24 Ill. Reg. 13861, effective SEP 1 2000)

Section 730.445 Referee Tests

Any customer, by written request to the Telecommunications Public Utilities Division of the Commission, may have a test of any recording device related to its billing, conducted by the local exchange carrier in the presence of a representative of the Commission, provided such request is not made more frequently than once every 6 months.

(Source: Amended at 24 Ill. Reg. 13861, effective SEP 1 2000)

SUBPART E: STANDARDS OF QUALITY OF SERVICE

Section 730.505 Operator Handled Calls

When an operator is notified by a customer that he has reached a wrong number,

ILLINOIS COMMERCE COMMISSION
NOTICE OF ADOPTED AMENDMENTS

has been cut off, or has experienced poor transmission, the operator shall arrange for credit, except in cases where fraudulent activity is demonstrable.

(Source: Amended at 24 Ill. Reg. 13861, effective SEP 1 2000)

Section 730.510 Answering Time

a) Operator offices shall be staffed so that the average speed of answer shall not exceed ten seven seconds for the following types of calls:

- 1) Toll and assistance; and
- 2) Information;
- 3) ~~Intercept~~; and
- 4) ~~Operator-number identification~~.

b) Whenever the average speed of answer exceeds ten seven seconds on a monthly basis, the company shall take corrective action.

c) The average speed of answer for calls placed to the business offices and repair offices shall not exceed 60 seconds where a representative or automated system is ready to render assistance and/or accept information to process calls.

d) Companies shall maintain records of telephone answer time performance at their business offices and repair offices. At a minimum, these records shall contain the following information in monthly increments:

- 1) Total number of calls received;
- 2) Total number of calls answered;
- 3) Average speed of answer; and
- 4) Total number and percentage of abandoned calls.

On or before March 1 of each year, each company shall file an annual report on its answer time for its business offices and repair offices with the Chief Clerk of the Commission. This information shall also be made available to the Commission when requested.

e) Whenever a telephone company fails to meet the monthly objectives contained in this Section, it shall report that fact to the Commission's Telecommunications Division, with a statement of the reasons, within 15 days after the end of each month.

(Source: Amended at 24 Ill. Reg. 13861, effective SEP 1 2000)

Section 730.515 Central Office Administrative Requirements

a) Central office capacity and equipment shall be provided to maintain a dial tone within three seconds on 95% of calls during the busy hour.

b) Each central office shall be equipped with alarms to indicate failures or improper functions.

c) ~~All central offices with 480 or more lines shall be provided with intercept equipment or equivalent procedures.~~

d) Either operator or mechanized intercept service shall be provided for

ILLINOIS COMMERCE COMMISSION
NOTICE OF ADOPTED AMENDMENTS

nonworking or changed terminating numbers until the numbers are assigned or reassigned.

d) All remote switching units are to be equipped to continue to perform basic internal switching functions if a base unit connection is interrupted.

e) Whenever a telephone company fails to meet the monthly objectives contained in this Section, it shall report that fact to the Commission's Telecommunications Division, with a statement of the reasons, within 15 days after the end of each month.

(Source: Amended at 24 Ill. Reg. 13861, effective SEP 1 2000)

Section 730.520 Interoffice Trunks

a) Local interoffice and intraoffice trunks shall be engineered so that at least 98% of telephone calls placed shall not encounter an all trunks busy condition. When the completion rate falls below 98% for three consecutive months, corrective action shall be initiated and such action reported to the Commission.

b) The trunk and related switching components in the inter-toll network shall be engineered and maintained so that 98% of the properly dialed incoming interMSA calls ~~BBB-incoming calls~~, during the average busy season, shall receive ringing signal, busy tone, or intercept on the first attempt. When this rate falls below 98% for three consecutive months, corrective action shall be initiated and that action reported to the Commission.

c) Interoffice toll access trunks shall be engineered for completion of 99% of calls without an all trunks busy condition. Whenever the completion rate falls below 99% for three consecutive months, corrective action shall be initiated and that action reported to the Commission.

(Source: Amended at 24 Ill. Reg. 13861, effective SEP 1 2000)

Section 730.525 Transmission Requirements

Local exchange carriers shall furnish and maintain plant, equipment, and facilities to meet the following minimum transmission standards. The transmission standards set forth in this Section are based upon measurements from the network interface at the customer premises through the local loop to a nominal 48-volt central office and measured at a frequency of 1004 hertz.

a) Local line analog loops shall have a loop resistance not exceeding the operating design of the associated central office equipment. Longer loops may be used by deployment of loop range extenders.

b) All analog loops are to be maintained to a minimum of 40,000 ohms insulation resistance.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- c) Transmission loss of analog local loop shall be engineered not to exceed 10 dB when measured in accordance with subsection (a). The local loop transmission loss shall be adjusted to 10 dB or less if it exceeds 10 dB.
- d) Transmission loss in analog interface trunks shall be engineered not to exceed 7 dB. If the loss exceeds expected design loss by + or - 3.5 dB, it shall be corrected to within 1 dB of the design loss.
- e) Transmission loss on analog toll terminating trunks shall be engineered not to exceed 4 dB. If the loss exceeds expected design loss by + or - 3.5 dB, it shall be corrected to within 1 dB of the design loss.
- f) Transmission loss on all digital interface trunks shall be engineered and maintained not to exceed 40 dB.
- g) Local loop shall be adjusted to 20 milliamperes or greater.
- h) Power influence (Noise to Ground) shall not exceed 90 dBmrc.
- i) Circuit noise (Noise Metallic) shall not exceed 30 dBmrc.

(Source: Amended at 24 Ill. Reg. 13861, effective SEP-1-2000.)

Section 730.530 Coin Telephone Service (Repealed)

- a) In each exchange, at least one public coin telephone will be available to the public on a 24-hour basis. This coin telephone shall be accessible to the public be sighted at night and be provided with a directory.
- b) All coin telephones shall be equipped to operate on a single-tone first coin.
- c) Each coin telephone shall have a notice attached to it informing the customer of the name of the long distance company and alternate operator service provider providing service from it.

(Source: Repealed at 24 Ill. Reg. 13861, effective SEP-1-2000.)

Section 730.535 Interruptions of Service

- a) On a monthly basis, the local exchange carrier shall clear 95% of all out-of-service troubles up to the customer network interface within 24 hours of the time such troubles are reported, except when such service interruptions are caused by emergency situations or natural disasters affecting a large number of customers.

- b) Required toll-free numbers
- 1) Each local exchange carrier shall provide to its customers the telephone number to call for repair service. Calls to repair service shall be available within 15 minutes. When trouble is actually located, the connecting company shall be immediately referred to the connecting company.

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- 2) Each local exchange carrier shall provide its business office telephone number to its customers. Calls to the business office shall be available without charge.
- c) Each local exchange carrier shall inform the Commission either verbally, followed by a written report within 30 days, or via facsimile of any complete central office failure or isolation of an exchange due to toll circuit failure when the failure exceeds two minutes one minute. This record shall show the time, duration, extent, and cause of the failure, and shall be retained for a period of one year.
- d) Whenever it is necessary to interrupt customer service for the purpose of working on the distribution system or central office equipment, the work should be completed with minimal customer impact. Those who will be most seriously affected by such interruption shall be notified in advance of any adjustments. Interrupted service shall be made available to all Illinois Code 735.70(c).
- e) Repair to service shall be available at all times for reporting service out of order. Arrangements shall be made to receive customer trouble reports 24 hours daily and to clear out of service trouble at all hours for customers who express an emergency need for service as long as clearing such trouble is consistent with the personal safety of local exchange carrier personnel. An emergency shall consist of an immediate threat to life, limb, or property.
- f) Each local exchange carrier shall maintain a record of trouble reports made by its customers. This record shall include appropriate identification of the customer or service affected, the time, date and nature of the report, the action taken to clear trouble or satisfy the complaint, and the date and time of trouble clearance or other disposition. The company shall retain these records for a period of one year from the date of the report.
- g) The local exchange carrier shall maintain service so that the average rate of all customer network trouble reports is no greater than 6 reports per 100 access lines per month.
- h) Whenever a telephone company fails to meet the monthly objectives contained in this Section, it shall report that fact to the Commission's Telecommunications Division, with a statement of the reasons, within 15 days after the end of each month.

(Source: Amended at 24 Ill. Reg. 13861, effective SEP-1-2000.)

Section 730.540 Installation Requests

- a) The local exchange carrier shall complete 90% of its regular service installations within five working days after the receipt of the application, unless a later date is requested by the applicant.
- b) Installation intervals beyond five working days may be appropriate in those instances where installation forces are busy restoring services

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

due to interruption caused by emergency situations, where materials cannot be obtained through no fault of the company, and during unusual rush periods caused by weather or by work stoppages.

- c) On a company basis, 90% of the local exchange carrier's regular service order installation commitments shall be met, excepting customer-caused delays or natural disasters. When, for company reasons, the service installation date cannot be made, the applicant will be notified, where possible, of the delay, the reasons therefor, and the approximate date when the service installation will take place.
- d) Whenever a telephone company fails to meet the monthly objectives contained in this Section, it shall report that fact to the Commission's Telecommunications Division, with a statement of the reasons, within 15 days after the end of each month.

(Source: Amended at 24 Ill. Reg. 13861, effective SEP-1-2000)

SUBPART F: SAFETY

Section 730.605 Accident Reports (Repealed)

Accidents shall be reported in accordance with 89 Ill. Adm. Code 228-

(Source: Repealed at 24 Ill. Reg. 13861, effective SEP-1-2000)

SUBPART G: BOUNDARIES

Section 730.705 Map Specifications

- a) A local exchange carrier boundary map filed after the effective date of this Part shall be in accordance with a certificate of service submitted by the carrier to the Commission. Any exchange carrier boundary map revised after the effective date of 83 Ill. Adm. Code 2000. A new certificate of service, petitionally will be issued for any exchange in which area is to be added or withdrawn.
- b) Each map shall have a scale of one inch to the mile and show the location of highways, railroads, waterways, section lines, and geographical township and range lines. The maps shall contain detail as shown on county maps available from the Illinois Department of Transportation.
- bc) Each map shall show the boundary lines of the area the local exchange carrier holds itself out to serve in connection with the exchange. Exchange boundary lines shall be located by appropriate measurement to an identifiable location if that portion of the boundary line is not otherwise located on section lines, waterways, railroads, or roads.
- cd) The name of the local exchange carrier filing the map shall be placed

ILLINOIS COMMERCE COMMISSION

NOTICE OF ADOPTED AMENDMENTS

at the left side of the top of the map, and the name of the exchange followed by the words "(Name of carrier) Exchange Area Boundary Map" shall be placed at the right side of the top of the map. The first filing of a map shall be designated by the word "Original" placed just below the words "(Name of carrier) Exchange Area Boundary Map". If the map is subsequently refilled, the words "First Revisions" shall be substituted for the word "Original," and on each subsequent refilling the next higher number shall be substituted for the number preceding the word "Revision" on the last map filed. The docket number and the date of the order granting a Certificate of Service Authority shall also appear at the right side near the top of the map.

(Source: Amended at 24 Ill. Reg. 13861, effective SEP-1-2000)

Section 730.725 District Boundaries (Repealed)

When it is necessary to revise district boundaries, customers affected by such change shall be given notice in accordance with 83 Ill. Adm. Code 735.180(k) and those objecting to the change may file a complaint with the Commission in accordance with 83 Ill. Adm. Code 735.280. The local exchange carriers, as a result of such complaints, shall provide the Commission with data supporting district boundary changes.

(Source: Repealed at 24 Ill. Reg. 13861, effective SEP-1-2000)

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED REPEALER

1) Heading of the Part: Special Education

2) Code Citation: 23 Ill. Adm. Code 226

3) Section Numbers:

Adopted Action:

226-3	Repeal	226-420	Repeal
226-5	Repeal	226-423	Repeal
226-7	Repeal	226-430	Repeal
226-10	Repeal	226-435	Repeal
226-20	Repeal	226-440	Repeal
226-30	Repeal	226-442	Repeal
226-40	Repeal	226-445	Repeal
226-110	Repeal	226-450	Repeal
226-115	Repeal	226-505	Repeal
226-120	Repeal	226-510	Repeal
226-125	Repeal	226-515	Repeal
226-130	Repeal	226-520	Repeal
226-135	Repeal	226-525	Repeal
226-140	Repeal	226-530	Repeal
226-145	Repeal	226-532	Repeal
226-150	Repeal	226-535	Repeal
226-155	Repeal	226-538	Repeal
226-160	Repeal	226-540	Repeal
226-210	Repeal	226-542	Repeal
226-215	Repeal	226-544	Repeal
226-220	Repeal	226-545	Repeal
226-225	Repeal	226-548	Repeal
226-230	Repeal	226-550	Repeal
226-240	Repeal	226-552	Repeal
226-250	Repeal	226-555	Repeal
226-260	Repeal	226-558	Repeal
226-270	Repeal	226-560	Repeal
226-280	Repeal	226-562	Repeal
226-290	Repeal	226-564	Repeal
226-310	Repeal	226-566	Repeal
226-315	Repeal	226-568	Repeal
226-320	Repeal	226-570	Repeal
226-325	Repeal	226-575	Repeal
226-330	Repeal	226-578	Repeal
226-335	Repeal	226-580	Repeal
226-340	Repeal	226-585	Repeal
226-350	Repeal	226-590	Repeal
226-355	Repeal	226-595	Repeal
226-360	Repeal	226-600	Repeal
226-365	Repeal	226-605	Repeal
226-370	Repeal	226-610	Repeal
226-375	Repeal	226-615	Repeal
226-380	Repeal	226-620	Repeal
226-385	Repeal	226-622	Repeal
226-410	Repeal	226-625	Repeal
		226-632	Repeal
		226-633	Repeal
		226-636	Repeal

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED REPEALER

226-420	Repeal
226-423	Repeal
226-430	Repeal
226-435	Repeal
226-440	Repeal
226-442	Repeal
226-445	Repeal
226-450	Repeal
226-505	Repeal
226-510	Repeal
226-515	Repeal
226-520	Repeal
226-525	Repeal
226-530	Repeal
226-532	Repeal
226-535	Repeal
226-538	Repeal
226-540	Repeal
226-542	Repeal
226-544	Repeal
226-545	Repeal
226-548	Repeal
226-550	Repeal
226-552	Repeal
226-555	Repeal
226-558	Repeal
226-560	Repeal
226-562	Repeal
226-564	Repeal
226-566	Repeal
226-568	Repeal
226-570	Repeal
226-575	Repeal
226-578	Repeal
226-580	Repeal
226-585	Repeal
226-590	Repeal
226-595	Repeal
226-600	Repeal
226-605	Repeal
226-610	Repeal
226-615	Repeal
226-620	Repeal
226-622	Repeal
226-625	Repeal
226-632	Repeal
226-633	Repeal
226-636	Repeal

STATE BOARD OF EDUCATION
NOTICE OF ADOPTED REPEALER

Repeal 226.640
Repeal 226.645
Repeal 226.670
Repeal 226.675
Repeal 226.692
Repeal 226.695
Repeal 226.710
Repeal 226.720
Repeal 226.730
Repeal 226.740
Repeal 226.750
Repeal 226.760
Repeal 226.770
Repeal 226.780
Repeal 226.810
Repeal 226.820
Repeal 226.830
Repeal 226.838
Repeal 226.840
Repeal 226.850
Repeal 226.860
Repeal 226.870
Repeal 226.880
Repeal 226.890
Repeal 226.910
Repeal 226.920
Repeal 226.930
Repeal 226.935
Repeal 226.938
Repeal 226.940
Repeal 226.950
Repeal 226.960
Repeal 226.1010
Repeal 226.1020
Repeal 226.1030
Repeal 226.1040
Repeal 226.1050
Repeal 226.1110
Repeal 226.1112
Repeal 226.1115
Repeal 226.1120
Repeal 226.1125
Repeal 226.1130
Repeal 226.1135
Repeal 226.1140
Repeal 226.1145
Repeal 226.1150
Repeal 226.1155

STATE BOARD OF EDUCATION
NOTICE OF ADOPTED REPEALER

- Repeal 226.1160
Repeal 226.1170
Repeal 226.1175
Repeal 226.1180
Repeal 226.1185
Repeal 226.1190
Repeal 226.1195
- 4) Statutory Authority: 105 ILCS 5/Art. 14 and 2-3.6
- 5) Effective Date of repealer: August 25, 2000
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? The repealer does not contain an incorporation by reference pursuant to Section 5-75 of the Illinois Administrative Procedure Act.
- 8) A copy of the adopted repealer, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: September 3, 1999; 23 Ill. Reg. 10617
- 10) Has JCAB issued a Statement of Objection to this repealer? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAB been made as indicated in the agreements issued by JCAB? No changes were requested by JCAB.
- 13) Will this rulemaking replace an emergency repealer currently in effect?
No
- 14) Are there any amendments pending on this Part? Yes. An entire new Part 226 was proposed at 23 Ill. Reg. 10693 (September 3, 1999).
- 15) Summary and Purpose of Rulemaking: The 1997 reauthorization of the federal Individuals with Disabilities Education Act (IDEA) created a need for numerous revisions to the State Board's rules for special education. The degree of change is so great as to warrant the repeal of the existing Part and the adoption of a comprehensive new set of rules on this subject.
- 16) Information and questions regarding this adopted repealer shall be directed to:
Jack Shook

STATE BOARD OF EDUCATION
NOTICE OF ADOPTED REPEALER
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777-0001
(217) 782-5589

STATE BOARD OF EDUCATION
NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Special Education
- 2) Code Citation: 23 Ill. Adm. Code 226
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
226.10	New Section
226.50	New Section
226.60	New Section
226.75	New Section
226.100	New Section
226.110	New Section
226.120	New Section
226.130	New Section
226.140	New Section
226.150	New Section
226.160	New Section
226.170	New Section
226.180	New Section
226.190	New Section
226.200	New Section
226.210	New Section
226.220	New Section
226.230	New Section
226.240	New Section
226.250	New Section
226.260	New Section
226.300	New Section
226.310	New Section
226.320	New Section
226.330	New Section
226.340	New Section
226.350	New Section
226.400	New Section
226.410	New Section
226.420	New Section
226.430	New Section
226.440	New Section
226.500	New Section
226.510	New Section
226.520	New Section
226.530	New Section
226.540	New Section
226.550	New Section
226.560	New Section
226.570	New Section
226.600	New Section
226.605	New Section
226.610	New Section

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

226.615 New Section
 226.620 New Section
 226.625 New Section
 226.630 New Section
 226.635 New Section
 226.640 New Section
 226.645 New Section
 226.650 New Section
 226.655 New Section
 226.660 New Section
 226.665 New Section
 226.670 New Section
 226.675 New Section
 226.680 New Section
 226.690 New Section
 226.700 New Section
 226.710 New Section
 226.720 New Section
 226.730 New Section
 226.740 New Section
 226.750 New Section
 226.760 New Section
 226.770 New Section
 226.800 New Section
 226.810 New Section
 226.820 New Section
 226.830 New Section
 226.840 New Section

4) Statutory Authority: 105 ILCS 5/Art. 14 and 2-3-6.

5) Effective Date of Rules: August 25, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rule contain incorporations by reference? The rules do not contain an incorporation by reference pursuant to Section 5-7/5 of the Illinois Administrative Procedure Act.

8) A copy of the adopted rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: September 3, 1999; 23 Ill. Reg. 10693.

10) Has JCAR issued a Statement of Objection to these rules? No

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

11) Differences between proposal and final version: Table of Contents: The title of Section 226.120 has been changed to "Identification of Needed Assessments".

Section 226.50

Section 226.50(g) has been changed to refer to "child from three through 21 years of age". Subsections (g) (1), (2), and (3) have been replaced by new text, and subsection (g)(4) has been relabeled as subsection (g)(2).

A new subsection (b)(1)(B) has been added and the existing subsection (B) relabeled as (C). A new second sentence has been added to that subsection to state, "In such a case, the district shall, within ten days after the date of the child's enrollment, initiate an IEP meeting for the purpose of developing the new IEP."

The first sentence of subsection (h)(2) has been revised to begin, "If the new school district does not receive a copy of the child's current IEP or a verbal confirmation of the requirements of that IEP from the previous school district when the child is presented for enrollment, the child shall be enrolled and served in the setting that the receiving district believes will meet the child's needs until..."

The second sentence of that subsection has been deleted and new subsections (A), (B), and (C) have been added.

Subsections (k)(1) and (k)(5) have been revised to refer to eligibility for services "through age 21".

A cross-reference to the requirements for notification has been inserted into subsection (k)(4).

Subsection (1) has been revised to refer to students "from 18 through 21 years of age".

Section 226.75

The proposed definitions of "Assessment for Instructional Purposes", "Child Review Team", and "Cultural Background Assessment" have been deleted, and the definition of "Case Study Evaluation" has been replaced with a cross-reference to the new definition of "Evaluation".

The proposed definition of "Date of Referral" has been replaced with new text.

The proposed definition of "Day" and all the definitions of individual disabilities have been changed to reflect the language used in the relevant federal regulations.

The definition of "Developmental Delay" has been deleted from the list of individual disabilities and inserted before the definition of

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

"Disability". The definition of "Domain" has been revised to refer to "in the course of designing a case study evaluation".

The definition of "Eligible" has been reworded to state, "Identified in accordance with this part as having any of the disabilities defined in this Section and needing special education and related services."

Definitions for "Evaluation," "Extended School Year Services," and "IEP Team" have been inserted.

The definition of "Individual Family Service Plan (IFSP)" has been corrected and moved into alphabetical order.

The definition of "Individualized Education Program (IEP)" has been revised to state, "A written statement for a child with a disability that is developed, reviewed, and revised in a meeting in accordance with Subpart C of this Part."

The proposed definition of "Language Use Pattern" has been deleted. In the definition of "parent," the phrase "A parent, a guardian" has been replaced with "A natural or adoptive parent of a child; a guardian but not the State if the child is a ward of the State". The last sentence of the proposed definition has been deleted.

The proposed definition of "Personally Identifiable Information" has been changed to define "Personally Identifiable".

The beginning of the definition of "Related Services" has been changed to "Transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education." A list of related services has also been included in the definition.

The definition of "Special Education" has been reworded to match the federal definition.

The proposed definition of "Student Record" has been replaced with a cross-reference to Section 2 of the Illinois School Student Records Act.

Slight revisions were made to the definition of "Supplementary Aids and Services".

The definition of "Transition Services" was restructured to match the comparable federal definition.

Section 226.100
Subsection (a) has been revised to refer to "all children from birth through age 21".

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

Subsection (a)(3)(B) has been amplified to refer to "Identified in writing" and corrected to refer to 34 CFR 303. A new last sentence has been added to direct the reader's attention to Section 226.260.

Section 226.110

Section (a)(5) has been simplified to refer to "parents".

The timeframe in subsection (d)(2) has been changed from 30 school days to 30 days.

Section 226.120

The title of this Section has been changed to "Identification of Needed Assessments". Every other reference to "Child Review Team" has been changed to "IEP Team".

Subsection (a) has been shortened by deleting all the proposed text after "relevant factors", including subsections (1) and (2).

A new subsection (c) has been inserted: "The team may conduct its review without a meeting." The subsequent subsections have been relabeled accordingly.

Proposed subsection (f) (now (g)) has been replaced with completely new text.

The cross-references in proposed subsection (g) (now (h)) have been revised.

Section 226.130

Subsection (c) has been amplified to refer to "a specific learning disability".

Subsection (g) has been expanded to discuss individual evaluators as well as procedures.

Section 226.140

In the introductory provision, the phrase "child's language use pattern" has been replaced with "primary language of the child's home".

Section 226.160

The reference to entrance and exit criteria has been removed from the introductory provision.

References to the Child Review Team have been replaced with references to the IEP Team.

The word "and" has been deleted from the end of subsection (a)(1) and added to subsection (a)(2) to accommodate the addition of a new subsection

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

(a)(3).

Section 226.170

All the text of this Section has been replaced with a cross-reference to the federal regulations.

Section 226.180

In subsection (c), the reference to "ten school days" has been changed to "five days".

Section 226.200

In subsection (a), "the child in question" has been changed to "an eligible child".

Section 226.210

The second sentence has been deleted from the introductory provision.

Subsection (a) has been shortened to state, "The child's parents shall be members of the IEP Team."

The second sentence of subsection (d) has been deleted.

Subsection (e)(4) has been reworded to state, "Has the authority to make commitments for the provision of resources and is able to ensure that the services set out in the IEP will be implemented."

Subsections (f) and (g) have been revised to provide that the team "may" include certain individuals.

The phrase "and shall keep a record of those steps" has been deleted from subsection (j)(2).

Subsection (j)(3) has been revised to require that the district invite the student and the parent.

Section 226.220

The introductory provision has been shortened by elimination of the last part of the last sentence.

Subsection (e) has been reworded to copy the relevant federal provision.

Section 226.230

Subsection (a)(3) has been changed to refer to "classroom-based assessments" and "alternative assessments and/or methods".

The last sentence has been eliminated from subsection (a)(3)(B).

The text of subsection (a)(6) has been reworded to copy the relevant

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

federal provision.

The word "and" has been inserted before "duration" in subsection (a)(8). The reference to who will implement each service has been removed.

Proposed subsection (a)(11) has been deleted.

Section 226.240

Subsection (a)(6) has been amplified to refer to "an age-appropriate regular classroom".

Section 226.300

A slight revision has been made in the wording of subsection (a)(6).

Section 226.310

In subsection (a)(2), "by children" has been replaced with "for children".

In subsection (d), the reference to "otherwise disabled" has been removed.

Subsection (1)(3) has been clarified and a new subsection (m) has been inserted.

Section 226.330

In the first sentence of the introductory paragraph, the nature of the determination made by the IEP Team has been clarified.

Section 226.350 Subsection (a)(1) has been revised to require consultation annually, rather than by the end of each school year.

Language has been added to subsection (d) to clarify the discussion of "other" services.

Section 226.400

In subsection (a), the cross-reference to the federal regulations has been replaced with a list of the factors to be considered.

In subsection (b), the phrase "Any suspension of a student" has been revised to read, "Any removal of a student (i.e., any "suspension")".

In subsection (e), the discussion of a "bus suspension" has been rewritten.

The timeframe referred to in subsection (g) has been changed from ten school days to ten business days. In the same subsection, "the alternative setting" has been changed to "an alternative setting".

In subsection (h)(3), the phrase "so that it does not recur" has been replaced with, "and to prevent that behavior from recurring".

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

A new subsection (i) has been inserted that points to the requirements that apply to interim alternative educational settings for certain students. The subsequent subsections have been relabeled accordingly.

Section 266.410

All the references to "Child Review Team" have been changed to "IEP Team".

The introduction to subsection (e) has been reworded.

Subsection (f) has been rewritten to require the district to initiate steps to remedy any deficiencies immediately.

Section 226.430

Subsection (b)(2) has been changed to refer to the need or a potential need for services.

Section 226.440

The phrase "as required by relevant statutes" has been deleted from subsection (a).

Several additional statutes have been referenced in subsection (b).

Section 226.500

In subsection (a)(2), the phrase "language use pattern" has been replaced with "primary language or other mode of communication".

In subsection (b), "native" has been changed to "primary".

Section 226.510

Subsection (b)(5) has been amplified with a cross-reference.

Section 226.520

Subsection (b)(8) has been changed to read, "If a meeting will be held, the information required by Section 226.530(b)(1) of this Part."

Section 226.540

The second sentence of subsection (d) has been revised to refer to consent for a required triennial evaluation.

Section 226.570

Subsection (a)(3) has been revised to state, "The name(s) of the student(s) involved, if known."

Section 226.615

The introduction to this Section has been expanded to require districts to assist individuals who request due process to meet any related requirements.

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

Section 226.625

The phrase "of this Part" has been added to the end of subsection (c)(2).

The cross-reference to the federal regulations in subsection (f) has been corrected.

Section 226.655

Subsection (b) has been changed to indicate that "the child's placement shall be the interim alternative educational setting that was determined appropriate by the IEP team".

The requirement stated in subsection (d)(4) has been amplified.

Section 226.700

Subsection (d) has been changed to refer to children from three through 21 years of age.

Section 226.710

A new subsection (b)(7) has been inserted (and the subsequent subsections have been relabeled accordingly).

Section 226.720

Subsection (a) has been amended by deleting the words "at least" that appeared before "comparable".

Section 226.730

A new sentence has been added to the beginning of this Section to provide a definition of "regular education classroom".

The text of subsection (a) has been replaced with new text.

In subsection (a)(2), the reference to children with severe, profound, or multiple disabilities has been revised.

Subsection (a)(4) has been revised to refer to a "specific learning disability," and the phrase "with differing exceptional characteristics" has been replaced with "who have different disabilities" in two places.

The text of subsection (b) has been replaced with new text.

Subsection (b)(3) has been changed to state, "The number of children served by a speech-language pathologist shall be based on the speech-language needs of each child. At no time shall the caseload exceed 80 students and, beginning September 1, 2003, the caseload of a speech-language pathologist shall not exceed 60 students."

A new subsection (b)(4) has been inserted.

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

The text of subsection (c) has been replaced with new text.

Subsection (e) has been revised to permit parents to "inspect, review, and copy" educational records.

Subsection (g) has been amplified by the addition of new subsections (4) and (5), referring to additional statutes.

Section 226.750

Subsection (e)(2) has been restated.

The last sentence has been deleted from subsection (e)(6).

In subsections (f)(1) and (f)(3), the term "vocational plan" has been replaced with "IEP".

Subsection (f)(2) has been restated to relate participation in community work experiences to students' IEPs and applicable child labor laws.

Section 226.760

The penultimate sentence of subsection (c)(1) has been replaced with new text.

Section 226.770

The last sentence has been deleted from subsection (a)(2).

Subsection (a)(3) has been revised to refer to "private insurance proceeds".

Subsection (a)(4)(C) has been changed and new subsections (D) and (E) have been inserted.

The cross-reference to Section 226.320 that appears in subsection (e)(1) has been corrected.

Section 226.800

The reference to a prevocational coordinator in subsection (c) has been changed to "vocational coordinator".

The phrase "of this Section" has been added to the end of subsection (c)(3).

Subsection (k)(1) has been revised and a new subsection (k)(2) has been added in order to distinguish between the types of supervision required by various individuals working in special education programs. The subsection now labeled (k)(3) has also been revised to refer to the preceding two provisions.

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

Section 226.810

In subsection (b), the reference to subsection (a)(1) has been corrected.

Section 226.830

A new subsection (c) has been added to allow evaluators to identify languages other than English in which they are proficient (and the former subsection (c) has been relabeled accordingly).

Section 226.840

The introduction to this section has been rewritten and amplified.

Additional credentials have been listed for individuals who may conduct hearing screenings.

12) Have all the changes agreed upon by the agency and JCARR been made as indicated in the agreements issued by JCARR? Yes

13) Will these rules replace emergency rules currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rules: The 1997 reauthorization of the federal Individuals with Disabilities Education Act (IDEA) created a need for numerous revisions to the State Board's rules for special education. The degree of change is so great as to warrant the repeal of the existing Part and the proposal of a comprehensive new set of rules on this subject.

16) Information and questions regarding these adopted rules shall be directed to:

Jack Shook
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777-0001
(217) 782-5589

The full text of the adopted rules begins on the next page:

STATE BOARD OF EDUCATION		STATE BOARD OF EDUCATION	
NOTICE OF ADOPTED RULES		NOTICE OF ADOPTED RULES	
TITLE 23: EDUCATION AND CULTURAL RESOURCES		Placement by School District in State-Operated or Nonpublic Special Education Facilities	
SUBTITLE A: EDUCATION		Nonpublic Placements by Parents	
CHAPTER I: STATE BOARD OF EDUCATION		Service to Children in Private Schools	
SUBCHAPTER I: INSTRUCTION FOR SPECIFIC STUDENT POPULATIONS			
PART 226		SUBPART E: DISCIPLINE	
SPECIAL EDUCATION			
SUBPART A: GENERAL			
Section		Section	
226.10	Purpose	226.330	Disciplinary Actions
226.50	Requirements for a Free Appropriate Public Education (FAPE)	226.400	Manifestation Determination Review
226.60	Charter Schools	226.410	Appeals
226.75	Definitions	226.420	Protection for Children Not Yet Eligible for Special Education
SUBPART B: IDENTIFICATION OF ELIGIBLE CHILDREN		226.430	Referral to and Action by Law Enforcement and Judicial Authorities
Section		226.440	
226.100	Child Find Responsibility	Section	
226.110	Referral	226.500	Language of Notifications
226.120	Identification of Needed Assessments	226.510	Notification of Parents' Rights
226.130	Evaluation Requirements	226.520	Notification of District's Proposal
226.140	Mode(s) of Communication and Cultural Identification	226.530	Parents' Participation
226.150	Case Study to be Nondiscriminatory	226.540	Consent
226.160	Determination of Eligibility	226.550	Surrogate Parents
226.170	Criteria for Determining the Existence of a Specific Learning Disability	226.560	Mediation
226.180	Independent Educational Evaluation	226.570	Complaints
226.190	Reevaluation	SUBPART G: DUE PROCESS	
SUBPART C: THE INDIVIDUALIZED EDUCATION PROGRAM (IEP)		Section	
Section		226.600	Calculation of Timelines
226.200	General Requirements	226.605	Request for Hearing; Basis
226.210	IEP Team	226.610	Information to Parents Concerning Right to Hearing
226.220	Factors in Development of the IEP	226.615	Procedure for Request
226.230	Content of the IEP	226.620	Denial of Hearing Request
226.240	Determination of Placement	226.625	Rights of the Parties Related to Hearings
226.250	Child Aged Three Through Five	226.630	Qualifications, Training, and Service of Impartial Due Process Hearing Officers
226.260	Child Reaching Age Three	226.635	Appointment of Impartial Due Process Hearing Officer
SUBPART D: PLACEMENT		226.640	Scheduling the Hearing and Pre-Hearing Conference
Section		226.645	Conducting the Pre-Hearing Conference
226.300	Continuum of Placement Options	226.650	Child's Status During Due Process Hearing
226.310	Related Services	226.655	Expedited Due Process Hearing
226.320	Service to Students Living in Residential Care Facilities	226.660	Powers and Duties of Hearing Officer
		226.665	Record of Proceedings
		226.670	Decision of Hearing Officer; Clarification
		226.675	Monitoring and Enforcement of Decisions; Notice of Ineligibility for Funding
		226.680	Reporting of Decisions

STATE BOARD OF EDUCATION
NOTICE OF ADOPTED RULES

226.690 Transfer of Parental Rights

SUBPART H: ADMINISTRATIVE REQUIREMENTS

Section	General
226.700	Policies and Procedures
226.710	Facilities and Classes
226.720	Case Load/Class Size
226.730	Records; Confidentiality
226.740	Additional Services
226.750	Evaluation of Special Education
226.760	Fiscal Provisions
226.770	

SUBPART I: PERSONNEL

Section	Personnel Required to be Qualified
226.800	Special Education Teaching Approval
226.810	Authorization for Assignment
226.820	List of Independent Evaluators
226.830	Qualifications of Evaluators
226.840	

AUTHORITY: Implementing Article 14 and authorized by Section 2-3.6 of the School Code [105 ILCS 5/Art.14 and 2-3.6].

SOURCE: Adopted August 12, 1976; rules repealed and new emergency rules adopted at 2 Ill. Reg. 37, p. 29, effective September 1, 1978, for a maximum of 150 days; rules repealed and new rules adopted at 3 Ill. Reg. 5, p. 932, effective February 1, 1979; emergency amendment at 4 Ill. Reg. 38, p. 328, effective September 15, 1980, for a maximum of 150 days; amended at 5 Ill. Reg. 8021, effective July 22, 1981; amended at 6 Ill. Reg. 558, effective December 23, 1981; emergency amendment at 7 Ill. Reg. 651, effective May 6, 1983, for a maximum of 150 days; emergency amendment at 7 Ill. Reg. 8949, effective July 15, 1983, for a maximum of 150 days; codified at 8 Ill. Reg. 6669; amended at 8 Ill. Reg. 7617, effective May 17, 1984; emergency amendment at 10 Ill. Reg. 3232, effective January 27, 1986, for a maximum of 150 days; emergency expired June 24, 1986; amended at 10 Ill. Reg. 18743, effective October 22, 1986; amended at 10 Ill. Reg. 19411, effective October 31, 1986; amended at 13 Ill. Reg. 15388, effective September 14, 1989; emergency amendment at 14 Ill. Reg. 11364, effective June 26, 1990, for a maximum of 150 days; emergency expired November 23, 1990; amended at 15 Ill. Reg. 40, effective December 24, 1990; amended at 16 Ill. Reg. 12868, effective August 10, 1992; emergency amendment at 17 Ill. Reg. 13622, effective August 3, 1993, for a maximum of 150 days; emergency expired December 31, 1993; amended at 18 Ill. Reg. 1930, effective January 24, 1994; amended at 18 Ill. Reg. 4685, effective March 11, 1994; amended at 18 Ill. Reg. 16318, effective October 25, 1994; amended at 19 Ill. Reg. 7207, effective May 10, 1995; amended at 20 Ill. Reg. 10908, effective

STATE BOARD OF EDUCATION
NOTICE OF ADOPTED RULES

August 5, 1996; amended at 21 Ill. Reg. 7655, effective July 1, 1997; Part repealed, new Part adopted at 24 Ill. Reg. ~~10804~~, effective AUG 23 2000.

SUBPART A: GENERAL

Section 226.10 Purpose

This Part establishes the requirements for the treatment of children and the provision of special education and related services pursuant to the Individuals with Disabilities Education Act ("IDEA") (20 USC 1400 et seq.) and Article 14 of the School Code [105 ILCS 5/Art.14]. The requirements of this Part shall apply in every instance when a child is or may be eligible for special education and related services.

Section 226.50 Requirements for a Free Appropriate Public Education (FAPE)

Each local school district shall ensure that a free appropriate public education (FAPE) is available to each child with a disability who is between the ages of 3 and 21, resides in the State and is enrolled in the district, and requires special education and related services to address the adverse effect of the disability on his or her education. The special education and related services must be provided according to the child's individualized education program (IEP) at no cost to the parent and in accordance with this Part. As public schools, charter schools are also bound by these requirements, and children with disabilities who attend public charter schools and their parents retain all rights under this Part.

a) As part of this obligation, each local district shall develop and implement procedures for creating public awareness of special education and related services and for advising the public of the rights of children with disabilities.

1) All such procedures shall ensure that information is made available in each of the major languages represented in the local school district and in language that will be understandable to parents, regardless of ethnic or cultural background or hearing or visual abilities.

2) Procedures developed by a district pursuant to this Section shall include, but need not be limited to:

- Annual notification to all parents in the district regarding the special education services available in or through that district and of their right to receive a copy of this Part upon request; and
- An annual dissemination of information to the community served by the school district regarding the special education services available in or through the district and the rights of children with disabilities.
- Documentation, including examples as appropriate, of the school district's efforts pursuant to this Section shall be maintained

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

in the district's files.

- b) As part of this obligation, each local school district shall comply with the requirements for identifying, locating, and evaluating all children with disabilities set forth in Section 226.100 of this Part.
 - c) A local school district is obligated to make FAPE available to each eligible child no later than the child's third birthday. (See Sections 226.110(d) and 226.260 of this Part.)
 - d) The special education services and placement that constitute FAPE for a particular child shall be identified based on the child's unique needs and not on the child's disability. These services shall address all of the child's identified needs for special education and related services.
 - e) The district shall provide nonacademic and extracurricular services and activities in a manner necessary to afford children with disabilities an equal opportunity to participate in those services and activities.
 - f) The local school district shall ensure that no delay occurs in implementing a child's IEP, including any case in which the source of payment or provision of services to the child is being determined.
 - g) No eligible child from three through 21 years of age may be permanently excluded from the public schools, either by direct action by the board of education, by indication of the district's inability to provide an educational program, or by informal agreement between the parents and the school district to allow the child to remain without an educational program.
 - 1) A public agency need not provide services during periods of removal to a child with a disability who has been removed from his or her current placement for ten school days or fewer in that school year, if services are not provided to a child without disabilities who has been similarly removed. An eligible child who has been suspended or expelled from school for more than ten school days during the school year must continue to receive services necessary to enable the child to appropriately progress in the general curriculum and appropriately advance toward achieving the goals set out in the child's IEP.
 - 2) In providing FAPE to children with disabilities who have been suspended or expelled from school, a school district shall meet the requirements set forth in Subpart E of this Part.
- b) Transfer Students
- 1) If a child who is receiving special education from a local school district transfers to another district, the new district is responsible for ensuring FAPE by providing special education and related services in conformity with an IEP. When a transfer student is presented for enrollment, the district shall enroll and initiate educational services to the student immediately. The new school district shall ensure that the child has an IEP in effect.
 - A) The district may adopt the IEP that the former local school

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

district developed for the child. Such adoption does not require an IEP meeting if:

- i) a copy of the child's current IEP is available;
 - ii) the parents indicate satisfaction with the current IEP; and
 - iii) the new district determines that the current IEP is appropriate and can be implemented as written.
- B) A district that cannot fully implement an IEP from a student's former district shall note in the IEP the services to be provided and shall explain what is being done to secure the remaining services, resources, or other unfulfilled portions of the IEP and how long those actions are expected to take.
- C) The district may develop a new IEP for the child if the school district or the parents do not believe the current IEP is appropriate. In such a case, the district shall, within ten days after the date of the child's enrollment, initiate an IEP meeting for the purpose of developing the new IEP. While the new IEP is under development, the district shall implement the IEP from the former district.
- 2) If the new school district does not receive a copy of the child's current IEP or a verbal confirmation of the requirements of that IEP from the previous school district when the child is presented for enrollment, the child shall be enrolled and served in the setting that the receiving district believes will meet the child's needs until a copy of the current IEP is obtained or a new IEP is developed by the new school district.
- A) In no case shall a child be allowed to remain without services during this interim.
 - B) The new district shall request the student's records from the sending district or school by the end of the next business day after the date of enrollment.
 - C) No later than ten days after expiration of the time allotted under Section 2-3.13a of the School Code [105 ILCS 5/2-3.13a] for the sending district or school to forward the child's records, the new district shall initiate an IEP meeting for the purpose of developing a new IEP, unless the sending district's or school's IEP arrives before this time elapses and the conditions set forth in subsection h)(1)(A) of this Section apply.
- i) Jurisdictional Disputes
- Each school district is responsible for ensuring that no eligible child for whom services are sought is denied FAPE due to jurisdictional disputes among Illinois agencies. Provision of FAPE to such a student shall not preclude a district from seeking repayment for costs incurred from any other school district or entity that is determined responsible for such costs.
- j) Nothing in this Part relieves any participating agency of the

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

responsibility for providing or paying for any services the agency would otherwise provide to students with disabilities who meet the eligibility criteria of that agency.

- k) Eligibility: Graduation or Completion of Program
 - 1) An eligible student who requires continued public school educational experience to facilitate his or her integration into society shall be eligible for such services through age 21.
 - 2) Students who reach age 21 during a school year shall be allowed to complete that year.
 - 3) The provision of FAPE is not required with respect to a student with a disability who has graduated with a regular high school diploma or its equivalent.
 - 4) A student with a disability who has satisfactorily completed a secondary program shall be granted a regular high school diploma. At least one year prior to a student's anticipated graduation, both the parent and the student shall receive written notification in conformance with the requirements of Section 226.520(b) of this Part that eligibility for public school special education services ends following the granting of a diploma and that the parent (or the student, if Section 226.690 of this Part applies) may request a review of the recommendation for graduation.
 - 5) Students who have graduated but have not been awarded regular high school diplomas continue to be eligible to receive FAPE through age 21.
- l) Exception for Certain Students Incarcerated as Adults

Pursuant to 34 CFR 300.311, the right to receive FAPE does not extend to students from 18 through 21 years of age who are incarcerated and who were not identified as eligible and did not have IEPs in their educational placements immediately prior to incarceration.

 - a) When a school's charter is issued by a local board of education pursuant to Section 27A-8 of the School Code [105 ILCS 5/27A-8], that charter school shall be considered as a school within the district over which that board of education exercises jurisdiction.
 - b) When a school's charter is issued by the State Board of Education pursuant to Section 27A-9(f) of the School Code [105 ILCS 5/27A-9(f)], that charter school shall be considered as a local educational agency.

Section 226.60 Charter Schools

For purposes of the Individuals with Disabilities Education Act and this Part, charter schools established pursuant to Article 27A of the School Code [105 ILCS 5/Art. 27A] shall be treated either as schools within school districts or as local educational agencies in their own right.

- a) When a school's charter is issued by a local board of education pursuant to Section 27A-8 of the School Code [105 ILCS 5/27A-8], that charter school shall be considered as a school within the district over which that board of education exercises jurisdiction.
- b) When a school's charter is issued by the State Board of Education pursuant to Section 27A-9(f) of the School Code [105 ILCS 5/27A-9(f)], that charter school shall be considered as a local educational agency.

Section 226.75 Definitions

Assistive Technology Device: Any item, piece of equipment, or product

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability.

Behavioral Intervention: An intervention based on the methods and empirical findings of behavioral science and designed to influence a child's actions or behaviors positively.

Case Study Evaluation: See "Evaluation"

Cultural Identification: Identifying the family's general cultural factors, such as ethnicity and language spoken, which may have an impact on the design of the case study evaluation procedures used.

Date of Referral: The date on which written parental consent to complete an evaluation is obtained or provided.

Day: A calendar day, unless otherwise indicated as "business day" or "school day".

Business Day: Monday through Friday, except for Federal and State holidays (unless holidays are specifically included in the designation of business days, as at 34 CFR 300.403(d)(1)(i)).

School Day: Any day including a partial day, during the regular school year that students are in attendance at school for instructional purposes.

Developmental Delay: Delay in physical development, cognitive development, communication development, social or emotional development, or adaptive development (may include children from three through five years of age).

Disability: Any of the following specific conditions.

Autism: A developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three that adversely affects a child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. The term does not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance.

Deaf-Blindness: Concomitant hearing and visual impairments, the combination of which causes such severe communication and other

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

developmental and educational needs that they cannot be accommodated in special education programs solely for children with deafness or children with blindness.

Deafness: A hearing impairment that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification, that adversely affects a child's educational performance.

Emotional Disturbance (includes schizophrenia but does not apply to children who are socially maladjusted, unless it is determined that they have an emotional disturbance): A condition exhibiting one or more of the following characteristics over an extended period of time and to a marked degree that adversely affects a child's educational performance:

An inability to learn that cannot be explained by intellectual, sensory, or health factors;

An inability to build or maintain satisfactory interpersonal relationships with peers and teachers;

Inappropriate types of behavior or feelings under normal circumstances;

A general pervasive mood of anxiety or unhappiness or depression; or

A tendency to develop physical symptoms or fears associated with personal or school problems.

Hearing Impairment: An impairment in hearing, whether permanent or fluctuating, that adversely affects a child's educational performance but that is not included under the definition of deafness.

Mental Retardation: Significantly subaverage general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, that adversely affects a child's educational performance.

Multiple Disabilities: Concomitant impairments (such as mental retardation-blindness, mental retardation-orthopedic impairment, etc.), the combination of which causes such severe educational needs that they cannot be accommodated in special education programs solely for one of the impairments (does not include deaf-blindness).

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

Orthopedic Impairment: A severe orthopedic impairments that adversely affects a child's educational performance; includes impairments caused by congenital anomaly (e.g., clubfoot, absence of some member, etc.), impairments caused by disease (e.g., poliomyelitis, bone tuberculosis, etc.), and impairments from other causes (e.g., cerebral palsy, amputations, and fractures or burns that cause contractures).

Other Health Impairment: Limited strength, vitality or alertness, including a heightened sensitivity to environmental stimuli, that results in limited alertness with respect to the educational environment, that:

is due to chronic or acute health problems, such as asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, and sickle cell anemia; and

adversely affects a child's educational performance.

Specific Learning Disability: A disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations, including such conditions as perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. (The term does not include learning problems that are primarily the result of visual, hearing, or motor disabilities, of mental retardation, of emotional disturbance, or of environmental, cultural, or economic disadvantage.) [105 ICS 5/14-1.03(a)]

Speech or Language Impairment: A communication disorder, such as stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a child's educational performance.

Traumatic Brain Injury: An acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgement; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. The term does not apply to brain

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

injuries that are congenital or degenerative or to brain injuries induced by birth trauma.

Visual Impairment: An impairment in vision that, even with correction, adversely affects a child's educational performance (includes both partial sight and blindness).

Domain: An aspect of a child's functioning or performance that must be considered in the course of designing a case study evaluation. The domains are health, vision, hearing, social and emotional status, general intelligence, academic performance, communication status, and motor abilities.

Educational Performance: A student's academic achievement and ability to establish and maintain social relationships and to experience a sound emotional development in the school environment.

Eligible: Identified in accordance with this Part as having any of the disabilities defined in this Section and needing special education and related services.

Equipment (a programmatic definition, not intended to coincide with the definition of "equipment" given in the Program Accounting Manual at 23 Ill. Adm. Code 110.120):

Machinery, utilities, and built-in equipment and any necessary enclosures or structures to house the machinery, utilities, or equipment; and

All other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture; printed, published and audio-visual instructional materials; telecommunications, sensory, and other technological aids, and devices; and books, periodicals, documents, and other related materials.

Evaluation: A series of procedures designed to provide information about a child's suspected disability; the nature and extent of the problems that are or will be adversely affecting his/her educational development; and the type of intervention and assistance needed to alleviate these problems.

Extended School Year Services: Special education and related services that are provided to a child with a disability beyond the normal school year of the public agency in accordance with the child's IEP and at no cost to the parents of the child and meet the requirements of Section 226.750(c) of this Part.

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

Functional Behavioral Assessment: An assessment process for gathering information regarding the target behavior, its antecedents and consequences, controlling variables, the student's strengths, and the communicative and functional intent of the behavior, for use in developing behavioral interventions.

General Curriculum: The curriculum adopted and/or used by a local school district or by the schools within a district for nondisabled students; the content of the program, as opposed to the setting in which it is offered.

IEP Team: The group of individuals enumerated in Section 226.210 of this Part, except that in three instances the team shall be expanded to include any other qualified professionals whose expertise is necessary to administer and interpret evaluation data and make an informed determination as to whether the child needs special education and related services (i.e., when identifying the specific assessments required in order to evaluate a child's individual needs, when determining whether the child is eligible pursuant to this Part; and when conducting a Manifestation Determination Review).

Independent Educational Evaluation: An evaluation conducted by a qualified examiner who is not employed by the school district responsible for the education of the child in question. (See Section 226.180 of this Part.)

Individualized Education Program (IEP): A written statement for a child with a disability that is developed, reviewed, and revised in a meeting in accordance with Subpart C of this Part.

Individualized Family Service Plan (IFSP): A written plan for providing the early intervention services to a child eligible under 34 CFR 303 and the child's family.

Interim Plan: A portion of an IEP that identifies the services that will be provided as a temporary measure, either when the child's complete IEP cannot be implemented or when the parents and the district have only agreed to a portion of the services that will be needed, and that sets out the specific conditions and timelines to which both the parents and the district have agreed.

Least Restrictive Environment (LRE): The setting that permits a child to be educated with nondisabled children to the maximum extent appropriate. (See Section 226.240(c) of this Part.)

Parent: A natural or adoptive parent of a child; a guardian but not the State if the child is a ward of the State; a person acting in the place of a parent of a child (such as a grandparent or stepparent with

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

whom a child lives); a person who is legally responsible for a child's welfare, or a surrogate parent who has been appointed in accordance with Section 226.350 of this Part. A foster parent is a "parent" when the natural parent's authority to make educational decisions on the child's behalf has been extinguished under State law and the foster parent has an ongoing, long-term parental relationship with the child; is willing to make the educational decisions required of parents under IDEA, and has no interest that would conflict with the interests of the child.

Participating Agency: A state or local agency, other than the local school district, that is or may be legally responsible for providing or funding services to a student who is eligible under this Part.

Personally Identifiable (with reference to information): Including the name of the child, the child's parent, or other family member; the address of the child; a personal identifier, such as the child's Social Security number or student number; or a list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty.

Qualified Personnel: Staff members or other individuals who hold the certificate, license, registration, or credential that is required for the performance of a particular task.

Qualified Bilingual Specialist: An individual who holds the qualifications described in Section 226.800(f) of this Part.

Qualified Specialist: An individual who holds the applicable qualifications described in Subpart I of this Part.

Referral: A formal procedure established by a school district which involves a request for a case study evaluation.

Related Services: Transportation and such developmental, corrective, and other supportive services as are required to assist a child with a disability to benefit from special education, including speech-language pathology and audiology services, psychological services, physical and occupational therapy, recreation (including therapeutic recreation), early identification and assessment of disabilities in children, counseling services (including rehabilitation counseling), orientation and mobility services, medical services for diagnostic or evaluation purposes; also including school health services, social work services in schools, and parent counseling and training. (See Section 226.310 of this Part.) Related services do not include those performed by licensed physicians or dentists (except for diagnostic or evaluative services or consultation to staff), registered or licensed practical nurses (except when

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

functioning as school nurses), or other medical personnel involved in the provision of ongoing medical care.

Special Education: Specially designed instruction, at no cost to the parents, to meet the unique needs of a child with a disability, including instruction conducted in the classroom, in the home, in hospitals, in institutions, and in other settings, and including instruction in physical education.

Special School: An educational setting which is established by the local school district exclusively to meet the needs of eligible children.

Student Record: See Section 2 of the Illinois School Student Records Act [105 ILCS 10/2].

Supplementary Aids and Services: Aids, services, and other supports that are provided in regular education classes or other education-related settings to enable children with disabilities to be educated with nondisabled children to the maximum extent appropriate.

Transition Services: A coordinated set of activities for a student with a disability that:

Is designed within an outcome-oriented process, that promotes movement from school to post-school activities, including postsecondary education, vocational training, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation;

Is based on the individual student's needs, taking into account the student's preferences and interests; and

Includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and, if appropriate, acquisition of daily living skills and functional vocational evaluation.

SUBPART B: IDENTIFICATION OF ELIGIBLE CHILDREN

Section 226.100 Child Find Responsibility

- a) Each school district shall be responsible for actively seeking out and identifying all children from birth through age 21 within the district, including children not enrolled in the public schools, who may be eligible for special education and related services. Procedures developed to fulfill this responsibility shall include:

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

- 1) An annual screening of children under the age of five for the purpose of identifying those who may need early intervention or special education and related services.
- 2) Ongoing review of each child's performance and progress by teachers and other professional personnel, in order to refer those children who exhibit problems which interfere with their educational progress and/or their adjustment to the educational setting, suggesting that they may be eligible for special education and related services.
- 3) Ongoing coordination with early intervention programs to identify children from birth through two years of age who have or are suspected of having disabilities, in order to ensure provision of services in accordance with applicable timelines.
 - A) Each local school district shall participate in transition planning conferences arranged by the designated lead agency under 20 USC 1437(a)(8) in order to develop a transition plan enabling the public school to implement an IFSP or IEP no later than the third birthday of each eligible child.
 - B) A child is considered "referred" to a school district when he or she is identified in writing by staff of an early intervention program pursuant to 34 CFR 303. Such a referral is effective no later than 60 school days prior to the child's third birthday, regardless of the date on which the notification takes place. (See Section 226.260 of this Part.)
- 4) Coordination and consultation with nonpublic schools located within the district that results in child find activities comparable to those affecting students in the public schools.

- b) When the responsible school district staff member(s) conclude that an individual evaluation of a particular child is warranted based on factors such as a child's educational progress, interaction with others, or other functioning in the school environment, the requirements for referral and evaluation set forth in this Subpart B shall apply.

Section 226.110 Referral

When there is reason to believe that a child may have a disability requiring special education and related services, the child shall be referred for a special education case study evaluation.

- a) Referral Procedures

Each school district shall develop and make known to all concerned persons procedures by which a case study evaluation may be requested. These procedures shall:

 - 1) Designate the steps to be taken in making a referral;
 - 2) Designate the person(s) to whom a referral may be made;
 - 3) Identify the information which must be provided;
 - 4) Provide any assistance that may be necessary to enable persons

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

- making referrals to meet any other related requirements established by the district;
- 5) Identify the process for providing the parents with notice of their rights with respect to procedural safeguards.
 - b) A referral may be made by any concerned person, including but not limited to school district personnel, the parent(s) of a child, an employee of a community service agency, another professional having knowledge of a child's problems, a child, or an employee of the State Board of Education.
 - c) District Response to Referral
 - 1) The school district shall be responsible for processing the referral, deciding what action should be taken, and initiating the necessary procedures.
 - 2) To determine whether the referred child requires a case study evaluation, the district may utilize screening data and conduct preliminary procedures such as observation of the child, assessment for instructional purposes, consultation with the teacher or other referring agent, and a conference with the child.
 - 3) The district shall determine whether or not to conduct a case study evaluation and notify the referring party and the parent of the decision and the basis on which it was reached.
 - d) If the district decides to conduct an evaluation, parental consent must be obtained.
 - 1) Pursuant to Section 14-8.02 of the School Code [105 ILCS 5/14-8.02], the case study evaluation and IEP meeting shall be completed within 60 school days after the date of referral or the date of the parent's application for admittance of the child to the public school.
 - 2) The IEP meeting shall be conducted within 30 days after the child is determined eligible. The overall limit specified in subsection (d)(1) of this Section still applies.
 - 3) When a child is referred for evaluation with fewer than 60 days of pupil attendance left in the school year, the eligibility determination shall be made and, if the child is eligible, an IEP shall be in effect prior to the first day of the next school year.
 - e) If the parent refuses consent for initial evaluation, the district may continue to pursue the evaluation by using the mediation or due process procedures described in Section 226-560 and Subpart G of this Part.
 - f) If the district decides not to conduct an evaluation:
 - 1) The referring party shall be provided written notice of the district's decision not to conduct an evaluation and, subject to the requirements of the Illinois School Student Records Act [105 ILCS 101 and 23 Ill. Adm. Code 375 (Student Records)], the reasons for that decision; and
 - 2) The parent shall be provided written notice of:

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

- A) The date of the referral and the reasons for which the case study evaluation was requested; and
- B) The reasons for which the district decided not to conduct a case study evaluation.

- g) If a district refuses or fails to conduct an evaluation, the parent of the child in question (or the student, if Section 226.690 of this Part applies) may appeal such refusal or failure in an impartial due process hearing.

Section 226.120 Identification of Needed Assessments

Each school district shall ensure that a full and individual evaluation is conducted for each child being considered for special education and related services. An evaluation shall cover all domains (see Section 226.75 of this Part) that are relevant to the individual child under consideration. The IEP team shall determine the specific assessments needed to evaluate the individual needs of the child.

- a) The IEP team that identifies the assessments and procedures needed must have the knowledge and skills necessary to interpret the resulting evaluation data and make an informed determination as to whether the child needs special education and related services. The composition of the team will vary depending upon the nature of the child's suspected disability and other relevant factors.

- b) The IEP team shall review and evaluate existing information about the child, including:

- 1) Information from a variety of formal and informal sources, including information provided by the child's parents;
- 2) Current classroom-based assessments and observations;
- 3) Observations by teachers and providers of related services;
- 4) Information provided by the child; and
- 5) Information from specialized evaluations such as those performed by independent evaluators, medical evaluators, behavioral intervention specialists, bilingual specialists, etc.

- c) The team may conduct its review without a meeting.
- d) The team shall determine what additional evaluation data are needed in each of the relevant domains, and from what sources that information should be obtained, in order for the team to determine:

- 1) Whether the child has, or continues to have, one or more of the disabilities defined in Section 226.75 of this Part;
- 2) The present levels of performance and educational needs of the child;
- 3) Whether the disability is adversely affecting the child's education;
- 4) Whether the child needs (or continues to need) special education and related services; and
- 5) Whether any additions or modifications to the child's special education and related services are needed to enable the child to meet the goals set out in his or her IEP and to participate

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

- e) appropriately in the general curriculum.
- f) If the IEP team identifies the need for additional evaluations, the school district shall administer or arrange for such tests and other evaluation procedures as may be needed to produce the needed information.

- g) If the IEP team determines that no additional information is needed, the district shall provide written notice to the child's parents of:

- 1) the determination and the reasons for it; and
- 2) the parents' right to request an assessment to determine whether the child is or continues to be eligible for special education and related services.

- h) Within ten school days after a parent requests an assessment pursuant to subsection (f)(2) of this Section the district shall either:

- 1) Notify the parent that it will conduct the assessment and make the necessary arrangements; or
- 2) If the district does not wish to conduct the assessment, request a due process hearing or notify the parent (in keeping with the requirements of Section 226.520 of this Part) of his or her right to request a due process hearing.

- i) The IEP team shall document its evaluation decisions, the basis for the determination made in each domain, and its decisions under subsections (d) and (f) of this Section. This information shall be provided to the parents in the form of a written notice in accordance with Section 226.520 of this Part.

Section 226.130 Evaluation Requirements

Each local school district shall establish written procedures to ensure that the following requirements are met.

- a) Tests and other materials used to evaluate a child:
- 1) Shall be selected and administered so as not to be discriminatory on a racial or cultural basis;
 - 2) Shall be provided and administered in the child's native language or other mode of communication, unless it is clearly not feasible to do so;
 - 3) Shall be technically sound and designed to assess the relative contributions of cognitive, behavioral, physical, and developmental factors; and
 - 4) Shall be used in a manner consistent with the instructions provided by their publishers.
- b) A variety of assessment tools and strategies shall be used by qualified specialists who are trained and knowledgeable and shall be used to gather relevant functional and developmental information about the child. The assessment shall include information provided by the parent that may assist in determining:
- 1) Whether the child is eligible for special education and related services; and, if so,
 - 2) The content of the child's IEP or IFSP, including information

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

Before a child is given a case study evaluation, the local school district shall determine the primary language of the child's home, general cultural identification, and mode of communication.

- a) Determination of the child's language use pattern and general cultural identification shall be made by determining the language(s) spoken in the child's home and the language(s) used most comfortably and frequently by the child.
- b) If the child has a non-English-speaking background, a determination shall be made of his or her proficiency in English. Such a determination shall be conducted in accordance with the provisions of 23 Ill. Adm. Code 228 (Bilingual Education), which specifies the assessment procedures and eligibility criteria for bilingual education programs (see 23 Ill. Adm. Code 228.15).
- c) Determination of the child's mode of communication shall be made by assessing the extent to which the child uses expressive language and the use he or she makes of other modes of communication (e.g., gestures, signing, unstructured sounds) as a substitute for expressive language.
- d) The child's language use pattern, proficiency in English, mode of communication, and general cultural identification shall be noted in the child's temporary student record, and this information shall be used in the case study evaluation and in the development and implementation of the individualized education program.

Section 226.150 Case Study to be Nondiscriminatory

Each case study evaluation shall be conducted so as to ensure that it is linguistically, culturally, racially, and sexually nondiscriminatory.

- a) The language(s) used to evaluate a child shall be consistent with the child's language use pattern. (See Section 226.140 of this Part.) If the language use pattern involves two or more languages or modes of communication, the child shall be evaluated by qualified specialists or, when needed, qualified bilingual specialists using each of the languages or modes of communication used by the child. The provisions of subsections (b) and (c) of this Section shall apply when a qualified bilingual specialist is needed but unavailable.
- b) If documented efforts to locate and secure the services of a qualified bilingual specialist are unsuccessful, the district shall use an individual who possesses the professional credentials required under Section 226.840 of this Part to complete the specific components of the evaluation. This qualified specialist shall be assisted by a certificated school district employee or other individual who has demonstrated competencies in the language of the child.
- c) If documented efforts to locate and secure the services of a qualified bilingual specialist or a qualified specialist assisted by another individual as provided in subsection (b) of this Section are unsuccessful, the district shall conduct assessment procedures which do not depend upon language. Any special education resulting from

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

related to enabling the child to be involved in and progress in the general curriculum or, if in preschool, to participate in appropriate activities.

- c) When a student is suspected of having a specific learning disability, an observation shall be conducted in accordance with Section 226.170 of this Part.
- d) Any standardized test that is administered shall:
 - 1) Have been validated for the specific purpose for which it is used; and
 - 2) Be administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the test.
- e) Tests and other evaluation materials shall be tailored to assess specific areas of educational need and may not be merely those that are designed to provide a single general intelligence quotient.
- f) Tests shall be selected and administered so as to ensure that, if they are administered to a child with impaired sensory, motor or communication skills, the results of each test accurately reflect the factors that test purports to measure.
- g) No single procedure and no single individual shall be used as the sole criterion or evaluator for determining whether a child is eligible pursuant to this Part or for identifying an appropriate educational program for a child.
- h) The school district shall use assessment tools and strategies that provide relevant information and are sufficiently comprehensive to assist in identifying all of the child's needs for special education and related services, whether or not commonly linked to the disability according to which the child has been classified.
- i) If an assessment is conducted under nonstandard conditions, a description of the extent to which the assessment varied from standard conditions shall be included in the evaluation report. This information is needed so that the team of evaluators can assess the effects of these variances on the validity and reliability of the information reported and determine whether additional assessments are needed. For example, the use of a translator when a qualified bilingual professional is not available may create nonstandard conditions.
- j) If any needed portion of a case study evaluation cannot be completed due to lack of parental involvement, religious convictions of the family, or inability of the child to participate in an evaluative procedure, the district shall note the missing portion(s) in the child's evaluation report and state the reason(s) why such portion(s) could not be completed.
- k) Each individual conducting a portion of a child's evaluation shall be qualified in accordance with Section 226.840 of this Part.

Section 226.140 Mode(s) of Communication and Cultural Identification

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

such alternative procedures shall be reviewed annually until the child acquires a predominantly English language use pattern.

- d) Tests given to a child whose primary language is other than English shall be relevant, to the maximum extent possible, to his or her culture.
- e) If the child's receptive and/or expressive communication skills are impaired due to hearing and/or language deficits, the district shall utilize test instruments and procedures that do not stress spoken language and one of the following:
 - 1) Visual communication techniques in addition to auditory techniques.
 - 2) An interpreter to assist the evaluative personnel with language and testing.

Section 226.160 Determination of Eligibility

Each school district shall develop written eligibility criteria that comply with the definitions of the disability categories identified in Section 226.75 of this Part.

- a) Upon completing the administration of tests and any other evaluation procedures, the IEP Team shall meet to interpret the evaluation data. This shall be done for the purpose of determining whether the child is eligible for special education and related services. In making this determination, the IEP Team shall:
 - 1) Draw upon information from a variety of sources, including aptitude and achievement tests, parental input, teacher recommendations, physical condition, social or cultural background, and adaptive behavior;
 - 2) Ensure that information obtained from all of these sources is documented and considered; and
 - 3) Ensure that a psychological evaluation has been conducted and a recommendation for eligibility has been made by a school psychologist for all children determined mentally impaired.
- b) A child may not be determined eligible under this Part if the determinant factor for that determination is lack of instruction in reading or math or limited English proficiency and the child does not otherwise meet the district's eligibility criteria.
- c) At the conclusion of the IEP Team's meeting, the team shall prepare a report describing its consideration of pre-existing information about the child, all new evaluation reports obtained, and any other information relevant to the decision about the child's eligibility. This description shall relate the information considered to the child's needs and shall further conform to the requirements of Section 226.170(d) of this Part if applicable. The team's report shall also include:
 - 1) the date of the meeting;
 - 2) the signatures of the participants, indicating their presence at the meeting; and

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

- 3) any separate written statement provided by a participant who wishes to be on record as disagreeing with the conclusions expressed in the team's report.
- d) The school district shall provide a copy of the IEP Team's report to the parent at the conclusion of the team's meeting. In addition, the district shall provide to the parent, within ten school days after the meeting, written notice conforming to the requirements of Section 226.520 of this Part as to the eligibility determination reached with respect to the child. The parent shall also be entitled to receive copies of any evaluation reports upon request.
- e) A copy of the IEP Team's report, together with all documentation upon which it is based, shall become a part of the child's temporary student record.
- f) If a child is determined eligible for special education and related services, an IEP shall be developed in accordance with Subpart C of this Part.

Section 226.170 Criteria for Determining the Existence of a Specific Learning Disability

The determination of the existence of a specific learning disability shall be conducted in accordance with the requirements set forth in the federal regulations at 34 CFR 300.541-543.

Section 226.180 Independent Educational Evaluation

Parents have the right to obtain an independent educational evaluation of their child, subject to the provisions of this Section.

- a) The district shall provide to the parents, upon their request, the list of independent educational evaluators developed by the State Board of Education pursuant to Section 226.830 of this Part.
- b) If the parents disagree with the district's evaluation and wish to obtain an independent educational evaluation at public expense, they shall submit to the local school district superintendent a written request to that effect.
- c) If the district disagrees with the need for an independent educational evaluation, it shall initiate a due process hearing to demonstrate that its evaluation is appropriate. Such a hearing must be initiated by the local school district within five days following receipt of a written parental request for an independent educational evaluation.
- d) An independent educational evaluation at public expense must be completed within 30 days after receipt of a parent's written request, unless the school district initiates a due process hearing or, parties agree that the 30-day period should be extended. If either party wishes such an extension and is unable to obtain the other party's agreement, the district shall initiate a due process hearing within ten school days after the date on which the extension was proposed.

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

- e) If the final decision of the hearing and review process is that the school district's evaluation is appropriate, the parents shall have the right to an independent educational evaluation, but not at public expense.
- f) If the school district's evaluation is shown to be inappropriate, the district shall pay for the independent educational evaluation or reimburse the parents for the cost of the evaluation.
- g) If the parent is entitled to an independent educational evaluation at public expense, it shall be completed within 30 days after the decision is rendered, unless the parties agree that the 30-day period should be extended. If either party wishes such an extension and is unable to obtain the other party's agreement, the school district shall initiate a due process hearing within ten school days after the date on which the extension was proposed.
- h) When an independent evaluation is obtained at public expense, the party chosen to perform the evaluation shall be either:
- 1) an individual whose name is included on the list provided by the State Board of Education with regard to the relevant type(s) of evaluation; or
 - 2) another individual possessing the credentials required by Section 226.840 of this Part.
- i) If the parent wishes an evaluator to have specific credentials in addition to those required by Section 226.840 of this Part, the parent(s) and the school district shall agree on the qualifications of the examiner and the specific evaluation(s) to be completed prior to the initiation of an independent educational evaluation at public expense. If agreement cannot be reached, the school district shall initiate a due process hearing subject to the time constraints set forth in this Section, as applicable.
- j) The conditions under which an independent evaluation is obtained at public expense, including the location of the evaluation and the qualifications of the examiner, shall meet the criteria that the public agency uses when it initiates an evaluation, to the extent that those criteria are consistent with the parent's right to an independent evaluation. Although the district may ask the parent to specify the areas of disagreement with the local school district's evaluation, the district may not impose any additional conditions or timelines related to obtaining an independent educational evaluation at public expense (such as requiring the parent to specify the areas of disagreement).
- k) If the parent obtains an independent educational evaluation, the written result of that evaluation shall be considered by the IEP Team. The district shall send the notice convening the IEP Team's meeting within ten days after receiving the evaluation report or after the parent requests a meeting to consider the results of an independent evaluation.
- 1) The district shall consider the results in any decision made with respect to the provision of a free appropriate public education

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

to the child.

- 2) The independent evaluation results may be presented as evidence at a hearing or review regarding the child pursuant to this Part.

Section 226.190 Reevaluation

- a) A local school district shall reevaluate an eligible child whenever conditions warrant a reevaluation or the child's parent or teacher requests a reevaluation, but at least once every three years. Reevaluations are subject to the applicable requirements of Sections 226.110 through 226.180 of this Part.
- b) A district shall reevaluate an eligible child before determining that the child is no longer eligible pursuant to this Part.
- c) A reevaluation is not required for a student who graduates from high school with a regular high school diploma or its equivalent or attains the age of 21. (See Section 226.50(k)(4) of this Part.)

SUBPART C: THE INDIVIDUALIZED EDUCATION PROGRAM (IEP)

Section 226.200 General Requirements

- a) An IEP shall be in effect before special education and related services are provided to an eligible child.
- b) Any activity undertaken with respect to a child's IEP (such as developing or revising the goals, benchmarks, short-term objectives, services, or placement) shall be conducted by an IEP Team that conforms to the requirements of Section 226.210 of this Part.
- c) Each school district shall have an IEP in effect for each eligible child within its jurisdiction at the beginning of each school year.
 - 1) When an IEP is developed or revised, notice to the parents shall be provided immediately in accordance with Section 226.520 of this Part, and implementation of the IEP shall occur no later than ten days after the provision of such notice.
 - 2) A school district shall provide special education and related services to eligible children in accordance with their IEPs. The district and teachers shall make efforts in good faith to assist children in achieving the goals and objectives or benchmarks listed in their IEPs. However, an IEP does not constitute a guarantee by a school district or teachers that a child will progress at a specified rate.
 - 3) If a participating agency other than the local school district fails to provide transition services required by an IEP, the school district shall convene an IEP meeting to identify alternative strategies for meeting the applicable transition objectives established in the child's IEP.
- d) A child's IEP shall be reviewed at least annually to determine whether the goals for the child are being achieved.
- e) Either a child's teacher or a child's parent may request the review of

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

the child's IEP at any time. Within ten days after receiving such a request, the district shall either agree and notify the parent in accordance with Section 226.530(b) of this Part or notify the parents in writing of its refusal, including an explanation of the reason no meeting is necessary to ensure the provision of FAPE for the child.

f) A child's IEP shall be revised if necessary to address:

- 1) any lack of expected progress related to the annual goals or the general curriculum, if appropriate;
 - 2) the child's anticipated needs;
 - 3) information about the child provided to or by the parents; or
 - 4) any other relevant matters.
- g) Each district shall have procedures in place for providing to involved staff members the information they need about the results of a child's IEP meeting, including any responsibilities they will have for implementation of the IEP.

Section 226-210 IEP Team

The composition of the IEP Team for a particular child, and the participation of the team members and other individuals in the IEP meeting, shall conform to the requirements of this Section.

- a) The child's parents shall be members of the IEP Team.
- b) The IEP Team shall include at least one regular education teacher if the child is participating or may participate in the regular education environment.

1) This should be the teacher who is or may be responsible for implementing a portion of the IEP, so that the teacher can participate in discussions about how best to teach the child.

The responsibilities of this teacher shall include assisting in:

- A) the determination of appropriate positive behavioral interventions and strategies for the child; and
- B) the identification of supplementary aids and services, program modifications, and supports for school personnel, consistent with 34 CFR 300.347(a)(3).

2) If the child does not have a regular teacher but is anticipated to receive at least some instruction in the regular education setting, the team shall include a regular classroom teacher qualified to teach children of that age.

3) For a child of less than school age, the team shall include an individual qualified to teach preschool children.

c) The team shall include at least one special education teacher. If known, this shall be the person who is or will be responsible for implementing a portion of the child's IEP. If the child is receiving only speech and language services, the speech and language pathologist shall fulfill this role.

d) If the child has more than one regular or special education teacher, the local school district may designate which teacher(s) will participate.

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

e) The IEP Team shall include a representative of the local school district who:

- 1) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of children with disabilities;

2) Is knowledgeable about the general curriculum;

- 3) Is knowledgeable about the district's resources; and
- 4) Has the authority to make commitments for the provision of resources and is able to ensure that the services set out in the IEP will be implemented.

f) The IEP Team may include a qualified bilingual specialist or bilingual teacher, if the presence of such a person is needed to assist the other participants in understanding the child's language and cultural factors as they relate to the child's instructional needs.

g) In the case of a child whose behavior impedes his or her learning or the learning of others, the team may include a person knowledgeable about positive behavior strategies, who may be one of the individuals enumerated in subsections (b) through (f) and (h) of this Section.

h) The IEP Team shall include an individual who is qualified to interpret the instructional implications of the evaluation results, who may be one of the individuals enumerated in subsections (b) through (g) of this Section.

i) In the case of a student for whom transition services must be planned, the district shall invite a representative of any other agency that is likely to be responsible for providing or paying for transition services. If a public agency invited to send a representative to a meeting does not do so, the district shall document other steps taken to obtain participation of that agency in the planning of any transition services.

j) Participation of Student

- 1) Either the district or the parent may invite the student who is the subject of the IEP meeting to attend.

2) The district shall invite the student when a purpose of the meeting is to plan for transition services needed by the student. The notice to the student shall conform to the requirements of Section 226.520(b)(8) of this Part. If the student does not attend, the district shall take other steps to ensure that the student's preferences and interests are considered.

3) The district shall invite the student and the parent when Section 226.690 of this Part applies. The student's absence from the IEP meeting shall be subject to the provisions for parental participation set forth in Section 226.530 of this Part.

k) At the discretion of the parent (or the student, if applicable) or the district, the IEP Team shall include other individuals with knowledge or special expertise regarding the child, including providers of related services.

Section 226.220 Factors in Development of the IEP

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

In developing a child's IEP, the IEP Team shall consider the strengths of the child and the concerns of the parents for enhancing the child's education, as well as the results of the most recent valid evaluation and any available assessment information that may be useful. If the IEP Team determines that one or more of the factors described in this Section could impede learning or that the child needs a particular device or service (including an intervention, accommodation, behavioral intervention or strategy, or other program modification or support for school personnel) in order for the child to receive FAPE, these needs shall be documented in the IEP.

- a) The team shall consider whether the child requires assistive technology devices and services.
- b) The team shall consider whether the child has any special needs related to communication.
- c) In the case of a child of limited English proficiency, the team shall consider the language-related needs of the child.
- d) In the case of a child who is deaf or hard of hearing, the team shall consider the child's language and communication needs, opportunities for direct communication with peers and professional personnel in the child's language and mode of communication, academic level, and full range of needs, including opportunities for direct instruction in the child's language and mode of communication.
- e) In the case of a child whose behavior impedes his or her learning or the learning of others, the team shall consider, if appropriate, strategies, including positive behavioral interventions, strategies, and supports to address that behavior.
- f) In the case of a child who is visually impaired, the team shall consider whether instruction in Braille and/or the use of Braille will be necessary. To omit or discontinue Braille instruction or use requires an evaluation of the child's reading and writing skills and needs and a determination by the IEP Team that Braille is not appropriate.

Section 226-230 Content of the IEP

Nothing in this Section shall be construed to require the inclusion of information in one section of a child's IEP that is already contained in another section.

- a) Each IEP shall include all the components enumerated in this subsection (a).
 - 1) A statement of the child's present levels of educational performance, including:
 - A) How the child's disability affects the child's involvement and progress in the general curriculum; or
 - B) For a preschool child, how the disability affects the child's participation in appropriate activities.
 - 2) A statement of measurable annual goals that reflect consideration of the State Goals for Learning and the Illinois Learning Standards (see 23 Ill. Adm. Code 1), as well as benchmarks or

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

short-term objectives developed in accordance with the child's present levels of educational performance, related to:

- A) Meeting the child's needs that result from the child's disability, to enable the child to be involved in and progress in the general curriculum or for preschool children, to participate in activities appropriate to the child's age; and
 - B) Meeting each of the child's other educational needs that result from the child's disability.
- 3) A description of how the child's progress toward his or her annual goals will be measured and of how the parent(s) will be informed of the child's progress. This description shall include a statement of the child's ability to participate in classroom-based assessments and what accommodations are necessary, if any. If the child is unable to participate even with accommodations, a description of the alternative assessment(s) and/or method(s) to be used shall also be provided.
- A) Parents of children with disabilities shall be informed of their children's progress at least as often as parents of children without disabilities are informed of their children's progress.
 - B) The information provided to the parents of a child served pursuant to this Part shall include a description of the child's progress toward his or her annual goals and an indication of the extent to which that progress is sufficient to enable the child to achieve those goals by the time the current IEP will require annual review.
- 4) A statement of the child's ability to participate in State and district-wide assessments.
- A) That statement must describe any individual accommodations that are needed in order for the child to participate in a given assessment.
 - B) If the IEP Team determines that the child will not participate in a particular assessment of student achievement (or part of an assessment), a statement as to:
 - i) Why that assessment is not appropriate for the child; and
 - ii) How the child's performance will be assessed, including a description of the alternate assessments to be used.
- 5) A statement as to the language(s) or mode(s) of communication in which special education and related services will be provided, if other than or in addition to English.
- 6) An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular education class and in extracurricular and other nonacademic activities.
- 7) A statement of the special education and related services and supplementary aids and services to be provided to the child, or

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

on behalf of the child, and a statement of the program modifications or supports for school personnel that will be provided in order for the child:

- A) To advance appropriately toward attaining the annual goals;
- B) To be involved and progress in the general curriculum and to participate in extracurricular and other nonacademic activities.
- 8) The projected beginning date for the services and modifications described in subsection (a)(7) of this Section; the amount, frequency, location, and duration of each of the services and modifications.
- 9) A statement as to whether the child requires the provision of services beyond the district's normal school year in order to receive FARE ("extended school year services").
- 10) The placement that the team has determined to be appropriate for the child.
- b) The IEP of a student who requires a behavioral intervention plan shall:

- 1) Summarize the findings of the functional behavioral assessment;
- 2) Summarize prior intervention(s) implemented;
- 3) Describe any behavioral intervention(s) to be used, including those aimed at developing or strengthening alternative or more appropriate behaviors;
- 4) Identify the measurable behavioral changes expected and method(s) of evaluation;
- 5) Identify a schedule for a review of the intervention's effectiveness; and
- 6) Identify provisions for communicating with the parents about their child's behavior and coordinating school-based and home-based interventions.
- c) The IEP for a student who has reached the age of 14 shall also include a description of the student's transition service needs under the applicable components of the IEP, with specific reference to the student's courses of study.
- d) The IEP for a student who has reached the age of 14 1/2 shall include goals for employment, postsecondary education, or community living alternatives and a description of transition supports or services, based on the student's needs, including identification of the agency responsible for delivering any needed support or service and, as applicable, any interagency responsibilities or needed linkages.
- e) The IEP for a student who has reached the age of 17 shall include documentation indicating that the student has been informed of the rights under the Individuals with Disabilities Education Act that will transfer to the student when he or she reaches the age of 18.
- f) The IEP of a student who may, after reaching age 18, become eligible to participate in the home-based support services program for mentally disabled adults authorized by the Developmental Disability and Mental Disability Services Act [405 ILCS 80] shall set forth specific plans

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

related to that program that conform to the requirements of Section 14-8.02 of the School Code.

- g) Students incarcerated as Adults
- 1) The IEP of a student incarcerated as an adult is not required to comply with:

- A) The requirements of subsection (a)(4) of this Section regarding assessment; and
- B) The requirements of subsections (c) and (d) of this Section regarding planning for the transition to adult life and services to assist with that transition, if the student's eligibility for special education will end before he or she will be eligible to be released from prison.
- 2) The IEP Team may modify a student's IEP or placement if the State has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated. The requirements of Section 226-240(c) of this Part regarding placement in the least restrictive environment shall not apply in these circumstances.

Section 226-240 Determination of Placement

- a) The placement determination shall be made by the IEP Team.
- b) The placement determination shall be consistent with the child's IEP.
- c) The placement determination shall provide the least restrictive environment for the child.

- 1) To the maximum extent appropriate, each child, including children in public or nonpublic residential facilities, shall be educated with children who are nondisabled.

- 2) Special education classes, separate schooling, or other removal of children with disabilities from the regular education environment shall occur only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

- 3) Each child's placement shall be as close as possible to his or her home.

- 4) Unless the IEP requires some other arrangement, a child shall be educated in the school he or she would attend if not disabled.
- 5) Consideration shall be given to the possible harmful effect of a placement on the child or on the quality of services received.
- 6) A child shall not be removed from an age-appropriate regular classroom solely because of needed modifications in the general curriculum.

- d) The placement decision shall permit the child to participate as appropriate in nonacademic and extracurricular services and activities (e.g., meals, recess, recreational activities, and clubs sponsored by the district).

- e) The placement determination shall be reviewed at least annually or any

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

time the IEP is revised.

Section 226.250 Child Aged Three Through Five

In the case of an eligible child three through five years of age, an IFSP that contains the material described in 20 USC 1436 may serve as a child's IEP if using that plan is agreed to by the local school district and the child's parents. If a district proposes to use an IFSP, the local school district shall:

- a) Provide a detailed explanation of the differences between an IFSP and an IEP to the child's parents; and
- b) Obtain informed, written consent from the parents for the use of the IFSP.

Section 226.260 Child Reaching Age Three

a) Child with an IFSP
For each child who will be making the transition from an early intervention program into the special education program of a school district at age three, the district shall ensure that either an IEP or the child's IFSP is in effect on his or her third birthday. A representative of the school district shall participate in the transition meeting scheduled by the early intervention team.

- b) Child without an IFSP
 - 1) For each child who is referred to a school district at least 60 school days prior to his or her third birthday and determined eligible, the district shall ensure that either an IEP or an IFSP is in effect on his or her third birthday.
 - 2) For each child who is referred with fewer than 60 school days remaining before his or her third birthday, or after that date, and determined to be eligible, the district shall comply with the requirements of Section 226.110(c) and (d) of this Part.
- c) If a child's third birthday occurs during the summer, the IEP team for that child shall determine when the district's services to the child will begin.

SUBPART D: PLACEMENT

Section 226.300 Continuum of Placement Options

Each local school district shall ensure that a continuum of placements is available to meet the needs of children with disabilities for special education and related services. The continuum shall include at least the following.

- a) Regular Classes
The child receives his or her basic educational experience through instruction in regular classes. However, these experiences are supplemented through:
 - 1) Additional or specialized instruction from the teacher;

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

- 2) Consultation to and with the teacher by providers of special education and related services;
- 3) Provision of special equipment, materials, and accommodations;
- 4) Modification in the instructional services (e.g., multi-age placement, expectations, grading, etc.);
- 5) Modification of curricular content or educational methodology; or
- 6) Other supplementary services, such as itinerant or resource services, in conjunction with the regular class placement.

b) Special Classes

The child receives specially designed instruction through a special education class. The child is included in those parts of regular classes which are appropriate.

c) Special Schools

The child receives specially designed instruction in a special school. The child is included in those parts of regular classes which are appropriate.

d) Home/Hospital Services

The child receives services at home or in a hospital or other setting because he or she is unable to attend school elsewhere due to a medical condition.

- 1) When an eligible student has a medical condition that will cause an absence for two or more consecutive weeks of school or ongoing intermittent absences, the IEP team for that child shall consider the need for home or hospital services. Such consideration shall be based upon a written statement from a physician licensed to practice medicine in all its branches which specifies:
 - A) the child's condition;
 - B) the impact on the child's ability to participate in education (the child's physical and mental health level of tolerance for receiving educational services); and
 - C) the anticipated duration or nature of the child's absence from school.

- 2) If an IEP team determines that home or hospital services are medically necessary, the team shall develop or revise the child's IEP accordingly.
- 3) The amount of instructional or related service time provided through the home or hospital program shall be determined in relation to the child's educational needs and physical and mental health needs. The amount of instructional time shall not be less than five hours per week unless the physician has certified in writing that the child should not receive as many as five hours of instruction in a school week.

- 4) A child whose home or hospital instruction is being provided via telephone or other technological device shall receive not less than two hours per week of direct instructional services.
- 5) Instructional time shall be scheduled only on days when school is regularly in session, unless otherwise agreed to by all parties.
- 6) Services required by the IEP shall be implemented as soon as

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

- e) possible after the district receives the physician's statement. State-Operated or Nonpublic Programs
The child is served in a State-operated or nonpublic facility because his or her disabilities are so profound or complex that no services offered by the public schools can meet his or her needs.

Section 226.310 Related Services

Related services shall be provided if necessary to assist an eligible child in benefiting from his or her special education. The related services that will be provided to a particular child shall be described in the IEP in conformance with the requirements of Section 226.230(a)(7) and (8) of this Part. The most commonly provided related services include assistive technology; audiology; counseling services; early identification and assessment of disabilities; diagnostic medical services; occupational therapy; orientation and mobility services; parent counseling and training; physical therapy; recreation; rehabilitation counseling; school health services; school psychological services; school social work services; special readers, braillists, typists, and interpreters; speech-language pathology services; transition services; transportation; and vocational education.

- a) Assistive Technology: Any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device as defined in Section 226.75 of this Part. Examples include:

- 1) The evaluation of the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment;
 - 2) Purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices for children with disabilities;
 - 3) Selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;
 - 4) Coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;
 - 5) Training or technical assistance for a child with a disability or, if appropriate, that child's family; and
 - 6) Training or technical assistance for individuals providing education or rehabilitation services, employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of a student with a disability.
- b) Audiology includes such services as:
- 1) Identification of children with hearing loss;
 - 2) Determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing;

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

- 3) Provision of habilitative activities such as language habilitation, auditory training, speech reading (lip-reading), hearing evaluation, and speech conservation; for the prevention of hearing loss;
 - 5) Counseling and guidance for pupils, parents, and teachers regarding hearing loss; and
 - 6) Determination of a child's need for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification.
- c) Occupational Therapy:
- 1) Improving, developing or restoring functions impaired or lost through illness, injury, or deprivation;
 - 2) Preventing ability to perform tasks for independent functioning;
 - 3) Preventing, through early intervention, initial or further impairment or loss of function.
- d) Orientation and Mobility Services: Services provided to a blind or visually impaired child to enable the child to attain systematic orientation to and safe movement within the environments in school, home, and community. Includes teaching a child:
- 1) Spatial and environmental concepts and the use of information received by the senses (such as sound, temperature and vibrations) to establish, maintain, or regain orientation and line of travel (for example, using sound at a traffic light to cross the street);
 - 2) The use of the long cane to supplement visual travel skills or as a tool for safely negotiating the environment;
 - 3) The use of remaining vision and low vision aids; and
 - 4) Other concepts, techniques, and tools deemed appropriate for the child.
- e) Parent Counseling and Training: Services to assist parents in understanding the special needs of their child, provide parents with information about child development, and help parents to acquire the skills that will allow them to support the implementation of their child's IEP or IFSP.
- f) Recreation: Services such as:
- 1) Assessment of leisure function;
 - 2) Therapeutic recreation services;
 - 3) Recreation programs in schools and community agencies; and
 - 4) Leisure education.
- g) Rehabilitation Counseling: Services provided in individual or group sessions that focus on career development, preparation for employment, achieving independence, and integration in the workplace and community of a student with a disability.
- h) School Health Services include such activities as:
- 1) Preparing a health assessment by conducting interviews with a child's parents and teachers, reviewing the Certificate of Child Health Examination, reviewing the vision and hearing screening

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

results and other pertinent health information, and recommending additional medical evaluations as indicated;

- 2) Interpreting health assessment results;
 - 3) Obtaining, integrating, and interpreting pertinent health information about a child as it applies to learning;
 - 4) Consulting with other staff members in planning school programs to meet the needs of children who require the provision of special health services at school;
 - 5) Planning and managing a program of school health services to meet the specific needs of all children;
 - 6) Identifying and mobilizing community health resources to enable children to learn as effectively as possible in the educational program; and
 - 7) Administering medication.
- j) School Psychological Services may include such activities as:
- 1) Administering psychological and educational tests and other assessment procedures;
 - 2) Interpreting assessment results;
 - 3) Obtaining, integrating, and interpreting information about children's behavior and conditions relating to learning;
 - 4) Consulting with other staff members in planning school programs to meet the special needs of children as indicated by psychological tests, interviews, and behavioral evaluations;
 - 5) Planning, managing, and providing a program of psychological services, including psychological counseling for children and parents; and
 - 6) Assisting in completing a functional behavioral assessment, as well as assisting in the development of positive behavioral intervention strategies.
- k) School Social Work Services may include activities such as:
- 1) Preparing a social developmental study on a child with a disability;
 - 2) Group and individual counseling with a child and his or her family;
 - 3) Working with parents and others on those problems in a child's living situation (home, school, and community) that affect the child's adjustment in school;
 - 4) Mobilizing school and community resources to enable the child to learn as effectively as possible in his or her educational program; and
 - 5) Assisting in completing a functional behavioral assessment, as well as assisting in the development of positive behavioral intervention strategies.
- k) Speech-Language Pathology Services encompass such activities as:
- 1) Screening, diagnosis and appraisal of specific speech and language impairments;
 - 2) Identification of children with speech and/or language impairments;

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

- 3) Referral and follow-up for medical or other professional attention necessary for the habilitation of speech and language impairments;
 - 4) Planning and developing interventions and programs for children or youth with speech and language impairments;
 - 5) Provision of services for the habilitation and prevention of speech and language impairments; and
 - 6) Counseling and guidance of parents, children, and teachers regarding speech and language impairments.
- l) Transportation: Special transportation services required because of the child's disability or the location of the special education program or related services, and which are in addition to the regular transportation services provided by the local school district.
- 1) Travel to and from school and between schools;
 - 2) Travel in and around school buildings;
 - 3) Specialized vehicles, specialized equipment (such as lifts and ramps, whether provided on regular, adapted, or special buses), and personnel who provide assistance to students in the course of transportation
- m) Travel Training: Providing instruction, as appropriate, to children with significant cognitive disabilities, and any other children with disabilities who require this instruction, to enable them to:
- 1) Develop an awareness of the environment in which they live; and
 - 2) Learn the skills necessary to move effectively and safely from place to place within that environment (e.g., in school, in the home, at work, and in the community).

Section 226.320 Service to Students Living in Residential Care Facilities

Children with disabilities may be placed into public or nonpublic residential facilities for reasons other than education by various public entities such as the Department of Corrections, the Department of Children and Family Services, or the juvenile courts. Except as provided in Section 14-8.01 of the School Code, the school district within whose boundaries such a facility is located is responsible for ensuring special education and related services in the least restrictive environment to those students who are eligible pursuant to this Part. "Residential facilities" refers to any of the following.

- a) "Children's Home" or "Orphanage": any licensed residential institution, other than those directly operated by the State of Illinois, which cares for disabled, neglected, delinquent, and/or dependent children.
- b) "Foster Family Home": an individual residential unit which cares for one or more disabled, neglected, delinquent, or dependent children who are not members of the primary family. Such a home accepts foster children for care under specific and written authority of a municipal, county, or State agency authorized to make such placement.
- c) "State Residential Units": residential housing units which are directly operated by the State of Illinois, on property owned by the

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

State, and primarily funded by an agency of the State.

Section 226.330 Placement by School District in State-Operated or Nonpublic Special Education Facilities

When an IEP Team determines that no less restrictive setting on the continuum of alternative placements will meet a child's needs, the child may be placed in a State-operated or nonpublic special education facility. In such a case, use of a State-operated program should be given first consideration. However, the district shall refer the child to the agency or facility which is most appropriate to the individual situation. This determination shall be based upon recent diagnostic assessments and other pertinent evidence and made in light of such other factors as proximity to the child's home. Evidence of a condition that presents a danger to the physical well-being of the student or to other students may be taken into consideration in identifying the appropriate placement for a particular child.

- a) When it appears that a child will require a placement pursuant to this Section, the IEP Team shall invite representatives of potential service providers to assist in identifying or verifying the appropriate placement for that child. If one or more needed representatives cannot attend, the district shall use other methods to ensure their participation.
- b) The local school district is responsible for ensuring implementation of the child's IEP and convening any needed IEP meetings, including the annual review. If the district allows a State-operated or nonpublic school to initiate and conduct the IEP meeting, the district must ensure that the parent and a representative of the district are invited to participate in any decision about the child's IEP and agree to any proposed changes in the program before the changes are implemented. The district remains responsible for the development and implementation of the child's IEP and for compliance with the requirements of this Part.
- c) No school district shall place any child in a nonpublic special education program, nor shall any such program accept placement of any child with a disability under Section 14-7.02 of the School Code [105 ILCS 5/14-7.02], unless all the following conditions have been met.
 - 1) The program has been approved by the State Board of Education for the school year for which placement is sought.
 - 2) The allowable costs for the program have been established pursuant to Section 14-7.02 of the School Code.
 - 3) The district has made the certification of inability to meet the student's needs to the State Superintendent of Education and the State Superintendent pursuant to Section 14-7.02 of the School Code and the State Superintendent has found the district in substantial compliance with Section 14-4.01 of the School Code [105 ILCS 5/14-4.01].
 - 4) The program has been approved by the State Board of Education for all of the disability categories applicable to the student and requiring services pursuant to the IEP.

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

- 5) The program has been approved by the State Board of Education for the age range that includes the age of the student.
- 6) The district has determined that all educational programming and related services specified on the child's IEP will be provided by the facility. The use of a nonpublic facility does not relieve the local school district of the responsibility for ensuring the provision of all programming and related services required by the IEP.
- 7) The school district and the facility have entered into the contractual agreement required by subsection (d) of this Section.
- 8) The child will receive an education that meets the standards applicable to education provided by the school district.
- d) If a nonpublic school placement is chosen, the district and the facility shall enter into an agreement utilizing a format provided by the State Board of Education. The agreement shall provide for, but need not be limited to:
 - 1) The child's IEP, as developed by the local school district;
 - 2) The amount of tuition that will be charged;
 - 3) Assurance that the special education staff of the placing school district may inspect the private facility and confer with the staff at reasonable times; and
 - 4) Assurances that the placement will result in no cost to parents.
- e) When a nonpublic facility is used, the school district shall be responsible for the payment of tuition and the provision of transportation as provided by Section 14-7.02 of the School Code. (See also Section 226.750(e) of this Part.)
- f) Each local school district shall be responsible for monitoring the performance of each State-operated or nonpublic facility where it has placed one or more eligible students, to ensure that the implementation of each IEP conforms to the applicable requirements of this Part.

Section 226.340 Nonpublic Placements by Parents

Except as provided in 34 CFR 300.403, a parent who elects to place a child in a nonpublic school or facility without the consent or referral of the local school district is not entitled to have the district pay for that placement if the district made or attempted to make PAPE available to the child.

- a) Disagreements between a parent and a school district regarding the district's provision of an appropriate program for a particular child shall be resolved by means of the due process afforded pursuant to Subpart G of this Part.
- b) No child who is placed into a nonpublic facility by his or her parent(s) without the consent or referral of the local school district has an individual right to receive the special education and related services that the child would receive if enrolled in the district. Instead, a district's services to such children are subject to the provisions of Section 226.350 of this Part.

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

Section 226.350 Service to Children in Private Schools

- a) To the extent consistent with their number and locations in the State, provision must be made by school districts for services to children with disabilities who have been enrolled in private schools by their parents.

- 1) Each school district shall consult annually with representatives of private schools in light of the funding available for serving their students, the number of such students, their needs, and their respective locations to decide:

- A) Which children will receive services;
- B) What services will be provided;
- C) How the services will be provided; and
- D) How the services provided will be evaluated.

- 2) Each school district shall give representatives of private schools a genuine opportunity to express their views regarding each matter that is subject to the consultation requirements of this subsection (a).

- 3) The consultation required by this subsection (a) shall occur before the school district makes any decision that affects the opportunities of private school children with disabilities to participate in services.

- 4) The school district shall make the final decisions with respect to the services to be provided to eligible children who are enrolled in private schools.

- 5) The school district shall maintain a written record of actions taken in compliance with the requirements of this subsection (a).

- b) The services provided by a school district to children with disabilities enrolled in private schools shall be comparable in quality to the services provided to eligible children enrolled in the district. "Comparable in quality" means provided by similarly qualified personnel.

- 1) Eligible students in private schools may receive a different amount of services than eligible children in public schools.

- 2) No individual child must receive a specific service or receive the same amount of service the child would receive in a public school.

- 3) For any child served pursuant to this Section, the school district shall develop a service plan that identifies the services that the district will provide to the child. The plan shall meet the requirements of Section 226.230 of this Part and shall be developed, reviewed, and revised consistent with Sections 226.200, 226.210, 226.220, and 226.530 of this Part.

- c) Services may be provided on site at a child's private school, including a religiously affiliated school, to the extent consistent with the provisions of IDEA (20 USC 141(d)).

- d) Transportation to and from a site other than the private school shall be provided if necessary for a child to benefit from or participate in

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

the services offered by the district at that site. This includes transportation from the service site to the private school or to the child's home, depending upon the timing of services.

- e) When a student receives services from a school district pursuant to this Section, the procedural safeguards described in Subpart F of this Part shall be available only with respect to complaints that the district has failed to fulfill the requirements of this Section. The due process requirements of Subpart G of this Part shall not apply.

SUBPART F: DISCIPLINE

Section 226.400 Disciplinary Actions

- a) School personnel may order the removal of an eligible child from his or her current placement for periods of no more than ten consecutive school days each in response to separate incidents of misconduct, as long as such repeated removals do not constitute a pattern based on consideration of factors such as the length of each removal, the total amount of time the child is removed, and the proximity of the removals to one another. In such a case, these removals shall not be considered to constitute a change in placement.

- 1) After an eligible child has been removed from his or her placement for ten school days in the same school year, the district shall provide services to the child on any subsequent day(s) of removal.

- 2) School personnel, in consultation with the child's special education teacher, shall determine the extent of the services to be provided, which shall be adequate to enable the child to progress appropriately in the general curriculum and advance toward achieving the goals set forth in his or her IEP.

- b) Any removal of a student (i.e., any "suspension") shall be reported immediately to the student's parents, along with a full statement of the reasons for the suspension, a copy of which shall also be given to the school board. The district shall provide the parents notice of their right to request that the district review the suspension decision, as required by Section 10-22.6 of the School Code [105 ILCS 5/10-22.6].

- c) When a district first removes a child for more than ten school days in a school year or initiates a removal that will constitute a change in placement, the district shall, no later than ten business days after the date of such removal, either:

- 1) convene an IEP meeting to review and, if necessary, revise the child's existing behavioral intervention plan as appropriate to address the child's behavior; or
- 2) convene an IEP meeting to develop a plan for a functional behavioral assessment for the child and, as soon as possible thereafter, develop a behavioral intervention plan for the child in light of that assessment.

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

- d) Upon any subsequent removal of a child that does not constitute a change in placement, the members of the IEP Team shall review the child's behavioral intervention plan and its implementation. If any one member of the team believes that the plan needs to be modified, the district shall convene an IEP meeting to review the plan and revise it as the team deems appropriate.
- e) A student may be suspended from using the transportation provided by the school district if his or her behavior warrants such a measure. When suspending transportation privileges results in the student's absence from school on given day, that day shall be considered a day of suspension or removal, and the requirements of Section 10-22.6 of the School Code shall apply.
- f) School personnel may order a change in placement for an eligible child to an interim alternative educational setting for the same amount of time that a child without a disability would be subject to discipline, up to a maximum of 45 days, if:
 - 1) the child carries a weapon, as defined at 34 CFR 300.520, to school or to a school function under the jurisdiction of a state school or a local school district; or
 - 2) the child knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance, both as defined at 34 CFR 300.520, while at school or a school function under the jurisdiction of a state or a local school district.
- g) No later than ten business days after making the decision to place the child in an alternative setting, the district shall convene an IEP meeting as delineated in subsection (c) of this Section.
- h) The interim alternative educational setting in which a child is placed pursuant to subsection (f) of this Section shall be identified by the child's IEP Team.
 - 1) The setting shall be selected so as to enable the child to continue to progress in the general curriculum.
 - 2) While the child is served in the interim alternative educational setting, he or she shall continue to receive the services and modifications set forth in the IEP.
 - 3) The placement shall include services and modifications designed to address the behavior that resulted in the child's being removed from his or her current educational placement and to prevent that behavior from recurring.
- i) Interim alternative educational settings for students who exhibit behavior that is likely to result in injury to themselves or others are subject to the provisions of Section 226.655 of this Part.
- j) No eligible child shall be expelled for behavior or a condition which is, or results from, the child's disability. If a district is considering expelling an eligible student, the district shall:
 - 1) Conduct a manifestation determination review as described in Section 226.410 of this Part;
 - 2) Adhere to the requirement of Section 10-22.6(a) of the School Code regarding meeting with the parent(s); and

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

- 3) Maintain the child in an appropriate placement.
- k) An expulsion constitutes a change in placement and requires revision of the child's IEP in a manner that conforms to the applicable requirements of Subpart C of this Part. Cessation of services to an eligible child is prohibited during a period of expulsion.

Section 226.410 Manifestation Determination Review

The requirements of this Section shall apply whenever a disciplinary action is contemplated with respect to an eligible child that will constitute a change in placement and that action is being considered because of behavior that violates any rule or code of conduct of the school district that applies to all students.

- a) On the date when the district determines that disciplinary action will be taken, the district shall notify the parents in writing to that effect and shall notify them of the procedural safeguards that apply.
- b) As soon as possible, but in no event more than ten school days after the date on which the district determines that disciplinary action will be taken, the district shall conduct a review of the relationship between the child's disability and the behavior that is subject to the disciplinary action (a "manifestation determination review").
- c) The manifestation determination review shall be conducted by the IEP Team.
- d) The IEP Team shall determine whether the child's behavior was a manifestation of his or her disability. In making its determination, the IEP Team shall consider all available relevant information, including:
 - 1) evaluation and diagnostic results, including information supplied by the child's parent(s);
 - 2) observations of the child; and
 - 3) the child's current IEP and placement.
- e) The team may determine that the subject behavior was not a manifestation of the child's disability only if it is determined that:
 - 1) The child's IEP and placement were appropriate, and special education services, supplementary aids and services, and behavioral intervention strategies were provided consistent with that IEP and that placement.
 - 2) The child's disability did not impair his or her ability to understand the impact and consequences of the behavior.
 - 3) The child's disability did not impair his or her ability to control the behavior.
- f) If the child's behavior is determined to have been a manifestation of his or her disability, the district shall immediately initiate steps to remedy any deficiencies identified in the IEP or its implementation, so that such deficiencies may be removed as soon as possible.
- g) If the child's behavior is determined not to have been a manifestation of the disability, the district may apply relevant disciplinary

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

procedures in the same manner as it would with respect to children without disabilities. In such a case, the district shall ensure that the student's special education and disciplinary records are provided for consideration by the person(s) making the final determination regarding the disciplinary action to be taken.

- h) When the application of a disciplinary measure results in a change in placement, services shall be provided to the extent determined necessary by the IEP Team to enable the student to progress in the general curriculum and advance appropriately toward achieving the goals set forth in his or her IEP.

Section 226.420 Appeals

- a) If the child's parent disagrees with a determination that the child's behavior was not a manifestation of the disability or with any disciplinary decision regarding placement, the parent may request an expedited due process hearing in accordance with Subpart G of this Part.
- b) The local school district, upon receiving the parent's request for a due process hearing, shall immediately initiate the procedure set forth in Section 226.615 of this Part to request an expedited due process hearing.
- c) If a parent requests a due process hearing to challenge the interim alternative educational setting or the manifestation determination, the child shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the 45-day period, whichever occurs first, unless the parent and the district agree otherwise. The same shall apply if a parent appeals the decision of a hearing officer in this regard.
- d) If a child's IEP Team proposes a new placement to take effect upon the expiration of an interim placement, and if the child's parent wishes to challenge that new placement, the child shall return to the placement previously set forth in his or her IEP (i.e., prior to the placement in the interim alternative educational setting) during the pendency of any due process hearing, except as provided in subsection (e) of this Section. (For purposes of this subsection (d), "new placement" may mean placement in the same alternative educational setting that was used as an interim alternative.)
- e) If school personnel consider that it is too dangerous for the child to be returned to the current placement, the district may request an expedited due process hearing to extend the length of time the student may remain in the interim alternative educational setting. (See Section 226.655 of this Part.)

Section 226.430 Protection for Children Not Yet Eligible for Special Education

- a) A child who has not been determined eligible under this Part and who has engaged in behavior that violated any rule or code of conduct of

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

the local school district may assert any of the protections provided for in this Part if the school district had knowledge that the child might be an eligible child before the occurrence of the behavior that precipitated disciplinary action.

- b) A district shall be deemed to have knowledge that a child may be an eligible child if, prior to the incident:
 - 1) The parent of the child has expressed concern in writing (or orally, if the parent is illiterate in English or has a disability that prevents a written statement) to personnel of the school district that the child is in need of special education and related services;
 - 2) The behavior or performance of the child demonstrates the need, or a potential need, for such services;
 - 3) The parent of the child has requested an evaluation of the child; or
 - 4) The child's teacher or another school employee has expressed concern in writing about the behavior or performance of the child to the director of special education or to other district personnel, in accordance with the district's child find or referral procedures.
- c) A district shall not be deemed to have knowledge that a child may be an eligible child if:
 - 1) the district determined that no evaluation was necessary or conducted an evaluation and determined that the child was not eligible; and
 - 2) provided written notice to the child's parents of its determination.
- d) If a district does not have knowledge that a child is or may be an eligible child prior to taking disciplinary measures against the child, the child may be subjected to the same disciplinary measures as those applied to children without disabilities engaging in comparable behavior.
- e) When a request is made for an evaluation of a child during the time period when the child is subjected to disciplinary measures, the district shall conduct an evaluation in an expedited manner.
- f) The child shall remain in the educational placement determined by school authorities, which may include suspension or expulsion without educational services, until the evaluation is completed.
- g) The district shall provide special education and related services after developing an IEP if the child is determined to be eligible for special education and related services.

Section 226.440 Referral to and Action by Law Enforcement and Judicial Authorities

- a) Nothing in this Part prohibits a local school district from reporting a crime committed by a child with a disability to appropriate authorities; or prevents state law enforcement and judicial

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

authorities from exercising their responsibilities with regard to the application of federal and state law to crimes committed by a child with a disability.

- b) A local school district reporting a crime committed by a child with a disability shall ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the authorities to whom it reports the crime, to the extent permitted by the Illinois School Student Records Act [105 ILCS 10], the Mental Health and Developmental Disabilities Confidentiality Act [740 ILCS 110], and the Family Educational Rights and Privacy Act (20 USC 1232(g)).

SUBPART F: PROCEDURAL SAFEGUARDS

Section 226.500 Language of Notifications

- a) The notices to individual parents required in this Subpart F shall be:
 - 1) Written in language understandable to the general public; and
 - 2) Provided in such a way as to accommodate the primary language or other mode of communication of the respective parent, unless it is clearly not feasible to do so.
- b) If the primary language or other mode of communication of the parent is not a written language, the local school district shall ensure that:
 - 1) The notice is translated orally or by other means to the parent in his or her native language or other mode of communication;
 - 2) The parent understands the content of the notice; and
 - 3) There is written evidence in the child's record that the requirements of this subsection (b) have been met.

Section 226.510 Notification of Parents' Rights

- a) A written notification conforming to the requirements of subsection (b) of this Section shall be given to parents on at least the following occasions:
 - 1) Upon a child's initial referral for evaluation;
 - 2) Along with each notification of an IEP meeting;
 - 3) Along with each request for consent for the reevaluation of a child; and
 - 4) Upon receipt of a request for due process pursuant to this Part.
- b) The notification required by this Section shall include a full explanation of all of the rights available to parents concerning:
 - 1) Independent educational evaluation;
 - 2) Prior written notice;
 - 3) Parental consent;
 - 4) Inspection and review of all educational records having to do with:
 - A) The identification, evaluation, and educational placement of

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

the child; and

- B) The provision of FAPE to the child;
- 5) The opportunity to file a written complaint with the Illinois State Board of Education as described in Section 226.570 of this Part;
- 6) Procedures for students who are subject to placement in an interim alternative educational setting;
- 7) Requirements for parents' unilateral placement of children in private schools at public expense;
- 8) Mediation services;
- 9) Due process hearings, including requirements for disclosure of evaluation results and recommendations;
- 10) A child's placement during the pendency of due process proceedings;
- 11) Civil actions; and
- 12) Attorneys' fees.

Section 226.520 Notification of District's Proposal

Ten days before a school district proposes or refuses to initiate or change the identification, evaluation, or educational placement of, or the provision of FAPE to, a child, the district shall provide written notice to the parent to that effect.

- a) If the notice relates to an action proposed by the school district that also requires parental consent, the district may give notice at the same time as it requests consent.
- b) The notice required by this Section shall include:
 - 1) A description of the action proposed or refused by the district;
 - 2) An explanation of why the district proposes or refuses to take the action;
 - 3) A description of any other options that the district considered and the reasons why those options were rejected;
 - 4) A description of each evaluation procedure, test, record, or report the district used as a basis for the proposed or refused action;
 - 5) A description of any other factors that are relevant to the district's proposal or refusal;
 - 6) A statement that the parents of an eligible child are protected by the procedural safeguards of this Part, and an indication of the means by which a description of those procedural safeguards may be obtained;
 - 7) Sources for parents to contact to obtain assistance in understanding the provisions of this Part; and
 - 8) If a meeting will be held, the information required by Section 226.530(b)(1) of this Part.
- c) A parent may waive the ten-day notice period before placement, allowing the district to place the child in the recommended program as soon as practicable.

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

Section 226.530 Parents' Participation

- a) Nothing in this Part precludes routine communication and consultation from occurring among school employees without parents in attendance, including preparatory activities that school personnel engage in to develop a proposal or a response to a parent's proposal that will be discussed at an IEP meeting.
- b) Whenever a meeting is to be held which a parent has a right to attend, the requirements of this subsection (b) shall apply.

1) No later than ten days prior to the proposed date of the meeting, except for a meeting convened pursuant to Section 226.400(g) of this Part, the district shall notify the parent(s) in writing of the purpose of the meeting, the proposed date, time, and place for the meeting, who else will be in attendance, and the parent's right to invite other individuals with knowledge or special expertise regarding the child. If a parent indicates that the proposed date or time is inconvenient, the district shall make reasonable efforts to accommodate the parent's schedule.

2) If neither parent can attend, the district shall use other methods to attempt to secure at least one parent's participation, including rescheduling the meeting, individual or conference telephone calls, or use of such other means of communication as may be available.

3) A meeting may be conducted without a parent in attendance if the district is unable to obtain the parent's participation. In this case the district shall maintain a record of its attempts to arrange a mutually agreed on time and place, such as:

A) Detailed records of telephone calls made or attempted and the results of those calls;

B) Copies of correspondence sent to the parents and any responses received; and

C) Detailed records of visits made to the parent's home or place of employment and the results of those visits.

4) The district shall take whatever action is necessary to facilitate the parent's understanding of and participation in the proceedings at a meeting, including arranging for an interpreter for parents who are deaf or whose native language is other than English.

5) Any document generated during the meeting shall be provided to the parent upon request, unless an applicable federal or State statute or federal regulation requires its automatic provision without a request.

Section 226.540 Consent

- a) A parent shall be considered to have given consent only when:

1) The parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

language or other mode of communication;

- 2) The parent understands and agrees in writing to the carrying out of the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and
- 3) The parent understands that his or her granting of consent is voluntary and may be revoked at any time by means of the due process described in Subpart G of this Part.

b) A school district may not require parental consent as a condition of any benefit to the parent or the child except for the service or activity for which the parent is required.

c) Parental consent shall be obtained before conducting an initial case study evaluation of a child. Consent for initial evaluation shall not be construed as consent for initial placement.

d) Parental consent shall be obtained before conducting any reevaluation of a child. If a parent fails or refuses to provide consent for a required triennial reevaluation within ten days after the district requests it, the district shall request a due process hearing.

e) Parental consent shall be obtained prior to the initial provision of special education and related services.

f) Parental consent shall be obtained prior to the use of the parent's private insurance to pay for services required by a child's IEP.

g) Parental consent shall be obtained for the disclosure of personally identifiable information about a child, consistent with the requirements of the Student Records Act.

h) Parental consent shall be obtained for the use of an IESP instead of an IEP.

i) If a parent desires to revoke consent, he or she shall request a due process hearing in accordance with Subpart G of this Part. Any revocation of consent as a result of a due process hearing is not retroactive, i.e., it does not negate an action that occurred after the consent was given and before it was revoked.

Section 226.550 Surrogate Parents

a) Whenever the parent or guardian of a child who is or may be eligible for services pursuant to this Part is not known or unavailable, or when the child is a ward of the State living in a residential facility, a person shall be assigned to act as a surrogate parent for the child in matters relating to the identification, evaluation, and educational placement of the child and the provision of a free, appropriate public education to the child.

1) A foster parent is considered a parent for the purposes of this Section, so a child residing with a foster parent does not require a surrogate parent to represent him or her in educational matters.

2) When a child who is a ward of the State is placed in a residential facility, a representative of that facility shall

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

submit to the State Board of Education a request for the appointment of a surrogate parent if the district has not already done so.

- b) The State Board of Education shall appoint a surrogate parent for each child who requires one, in keeping with the following requirements.

- 1) All reasonable efforts shall be made to secure a surrogate parent whose racial, linguistic, and cultural background is similar to the child's.
- 2) The surrogate parent shall have been trained by the State Board.
- 3) The surrogate parent shall have no interest that conflicts with the interests of the child he or she will represent.
- 4) The surrogate parent shall have the knowledge and skills needed to ensure adequate representation of the child.
- 5) An individual may not be appointed as a surrogate parent for a child if he or she is:
 - A) employed by the State Board of Education;
 - B) employed by the school district in which the child is enrolled; or
 - C) employed by any other agency involved in the child's education.

- c) When a surrogate parent is appointed, the State Board of Education shall provide written notification to the local school district, the individual appointed, and, if applicable, the residential facility of the name and address of the surrogate parent, the specific responsibilities to be fulfilled, and the length of time for which the appointment is valid.

- d) Any person participating in good faith as a surrogate parent on behalf of a child before school officials or a hearing officer shall have immunity from civil or criminal liability that otherwise might result by reason of such participation, except in cases of willful and wanton misconduct.

- e) The services of any person assigned as a surrogate parent shall be terminated if the child's parent or guardian becomes available.

- f) When a child living in a residential facility no longer requires a surrogate parent, a representative of the facility shall notify the State Board of Education in writing to that effect. This notification shall include the reason for withdrawal of the request.

- g) When a surrogate parent's appointment is terminated, the State Board of Education shall so notify the surrogate parent, the local school district, and, if applicable, the residential facility.

Section 226.560 Mediation

Each school district shall inform parents that the State Board of Education offers a process of mediation that can be used when there are disputes regarding the identification, evaluation, or placement of, or the provision of, a child. This notification shall be provided at least whenever a due process hearing is requested.

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

- a) Each district shall ensure that, when used, the mediation process:

- 1) Is voluntarily entered into by all parties; and
- 2) Is not used to deny or delay a parent's right to a due process hearing, or to deny any other rights afforded under this Part.

- b) If either party is interested in participating in mediation, that party shall contact the State Board of Education.

- c) Each session in the mediation process shall be scheduled in a timely manner and held in a location that is convenient to the parties involved in the dispute.

- d) Discussions that occur during mediation shall be confidential and may not be used as evidence in any subsequent due process hearings or civil proceedings. The parties to mediation may be required to sign a confidentiality pledge prior to the commencement of the process.

- e) Any agreement reached in the course of mediation shall be set forth in writing and shall be consistent with applicable federal and State laws and regulations.

- f) The State Board of Education shall maintain a list of individuals who are qualified mediators and knowledgeable about the laws and regulations relating to the provision of special education and related services.

- g) Mediators shall be selected by the State Board from its list by rotation.

- h) The State Board of Education shall bear the cost of sending a mediator to sessions held pursuant to this Section and other, incidental costs.

Section 226.570 Complaints

- a) A parent, individual, organization, or advocate may file a signed, written complaint with the State Board of Education alleging that a local school district, cooperative service unit or the State has violated the rights of one or more children with disabilities. Such a complaint shall include:

- 1) A statement that a responsible public entity has violated a requirement of this Part;
- 2) The facts on which the statement is based; and
- 3) The name(s) of the student(s) involved, if known.

- b) A complaint shall only be considered if it alleges that the violation occurred not more than one year prior to the date on which the complaint is received, unless a longer period is reasonable because the violation is continuing, or the complainant is requesting compensatory services for a violation that occurred not more than three years prior to the date on which the complaint is received.

- c) Each complaint that complies with the requirements of subsections (a) and (b) of this Section shall be investigated within 60 days after its receipt by the State Board of Education. An extension of that time limit is allowed if exceptional circumstances exist with respect to a particular complaint.

- d) Upon completion of the State Board's investigation, the agency shall

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

issue a letter of findings that sets forth:

- 1) the allegations of the complaint;
 - 2) findings of fact and conclusions;
 - 3) the reasons for the decision; and
 - 4) orders for any actions that are necessary to bring a school district into compliance with applicable requirements.
- e) If a written complaint is received by the State Board of Education involving one or more issues that are also the subject of a due process hearing, the State Board shall hold those portions of the complaint in abeyance pending the completion of the hearing. However, any issues that are not the subject of the hearing shall be resolved as provided in this Section.
- f) If a complaint is filed about an issue that has previously been decided in a due process hearing involving the same parties, the decision arising from that hearing shall be considered binding, and the State Board shall inform the complainant to that effect. A complaint alleging a local school district's failure to implement a decision arising from due process, however, shall be resolved by the State Board pursuant to Section 226.675 of this Part.

SUBPART G: DUE PROCESS

Section 226.600 Calculation of Timelines

In calculating the timelines specified in this Subpart G, Section 1.11 of the Statute on Statutes [5 ILCS 70/1.11] shall apply. The first day shall be excluded and the last day shall be included, unless the last day is Saturday, Sunday, or a holiday as defined or fixed in any statute now or hereafter in force in this State, in which case it shall be excluded. If the day succeeding such Saturday, Sunday, or holiday is also a holiday or Saturday or Sunday, then such succeeding day shall also be excluded.

Section 226.605 Request for Hearing; Basis

A parent, a school district, or a student may request an impartial due process hearing for any reason connected to the identification, evaluation, or placement of, or the provision of services to, a student who is or may be eligible pursuant to this Part. No other party shall have standing to submit such a request.

Section 226.610 Information to Parents Concerning Right to Hearing

- a) Each school district shall inform parents in writing of their right to a hearing and of the procedures for requesting one. The district shall notify the parent of the information the parent must provide when requesting a hearing, in one of the following ways.

- 1) The district may provide the parent with a model form designed by the State Board of Education in accordance with 34 CFR

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

300.507(c)(1)(v)(3); or

- 2) The district may inform the parent that the request for a hearing must include the following information:
 - A) the name of the child;
 - B) the address of the child's residence;
 - C) the name of the school the child is attending;
 - D) a description of the nature of the problem relating to the proposed or refused initiation or change, including facts relating to the problem;
 - E) a proposed resolution of the problem, to the extent known and available to the parents at the time; and
 - F) If known, whether the parents will be represented by legal counsel.
- b) The director of special education shall assist parents in taking whatever action is necessary to use the hearing process.
- c) The district shall inform the parents of the availability of mediation and of any free or low-cost legal services and other publicly funded advocacy services available in the area if the parent requests the information, or if the parent or the district initiates a hearing.

Section 226.615 Procedure for Request

Pursuant to Section 226.605 of this Part, the local school district, the parent of any student resident within the district, or the student may request an impartial due process hearing. A parent's or student's request for a hearing shall be made in writing to the superintendent of the school district in which the student is a resident. The district shall provide any assistance that may be necessary to enable a person requesting a due process hearing to meet any related requirements. (See Section 226.655 of this Part for requirements pertaining to expedited due process hearings.)

- a) If the district makes the request, it shall be sent in writing to the State Board of Education in Springfield, and at the same time a copy shall be sent to the other party. This letter shall include the information set forth in subsections (b)(1)(A), (C) and (D) of this Section.
- b) When a district receives a request for a hearing from a parent or from a student, then within five days after its receipt of the request the district shall:
 - 1) Send a letter to the State Board of Education in Springfield requesting the appointment of an impartial due process hearing officer. This letter shall be delivered by certified mail or another means that provides written evidence of the delivery and shall include:
 - A) the name, address, and telephone number of the student and the parent, and of the person making the request for the hearing if other than the student or the parent;
 - B) the date on which the request for the hearing was received by the local school district;

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

- C) the nature of the controversy to be resolved;
 D) the remedy being sought;
 E) the primary language spoken by the parents and student; and
 F) a copy of the request.
- 2) Send to the person requesting the hearing, by certified mail or another means providing written evidence of delivery, a copy of the letter sent to the State Superintendent.
- A) If the hearing has been requested by the district or the student, the district shall inform the parents by certified mail of the request and invite them to participate in the proceedings.
- B) All references to parents made in the remainder of this Subpart G shall be understood to include both the parents and the person requesting the hearing.

Section 226.620 Denial of Hearing Request

A request for an impartial due process hearing that conforms with Section 226.605 of this Part may not be denied for any reason.

Section 226.625 Rights of the Parties Related to Hearings

- a) The parties have the right to be represented at their own expense by counsel, or to be represented and assisted by other persons having special knowledge of this Part.
- b) The parents may inspect and review all school records pertaining to their child and, subject to the provisions of 23 Ill. Adm. Code 375.50 (Student Records), may obtain copies of any such records at their own expense.
- c) The parents shall have access to the district's list of independent evaluators, and may obtain an independent evaluation of their child at their own expense.
- 1) If the parents believe that acquisition of a completed independent evaluation will require a delay in convening the hearing, the parents shall request such a delay as provided in Section 226.640(c) of this Part.
- 2) The parents may ask the hearing officer to determine whether an independent evaluation is needed. If the hearing officer concludes, after reviewing the available information, that an independent evaluation is necessary to inform the hearing officer concerning the services to which the student may be entitled, it shall be so ordered and provided at the school district's expense. The hearing officer shall delay the hearing as provided for in Section 226.640(c) of this Part.
- 3) This subsection (c) shall not apply to expedited hearings conducted pursuant to Section 226.655 of this Part.
- d) Either party to a hearing, other than an expedited hearing conducted pursuant to Section 226.655 of this Part, has the right to the

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

disclosure, at least five days prior to the hearing, of any evidence to be introduced. Either party may prohibit the introduction of evidence which was not disclosed to that party at least five days prior to the hearing. The hearing officer may reschedule the hearing to permit full disclosure. Disclosure of evidence with respect to an expedited hearing shall conform to the requirements of Section 14-8.02b of the School Code (105 ILCS 5/14-8.02b).

- e) Either party may compel the attendance of any school district employee at the hearing, or any other person who may have information relevant to the needs, the abilities, the proposed program, or the status of the student. At the request of either party, the hearing officer shall authorize the issuance of subpoenas to compel the testimony of witnesses or the production of documents relevant to the case at issue. If any person refuses to comply with a subpoena issued under this Section, court action may be sought as provided in Section 14-8.02a(g) of the School Code (105 ILCS 5/14-8.02a(g)).
- f) Pursuant to 34 CFR 300.509(c)(1)(i), the parent has the right to have the child who is the subject of the hearing present at the hearing.
- g) Either party, or any other person participating in the hearing, may request that an interpreter be available during the hearing because one of the participants is hearing impaired and/or uses a primary language other than English. Such interpreters shall be provided at the school district's expense.
- h) The student's educational placement shall not be changed pending completion of the hearing except as provided in Section 14-8.02a(j) of the School Code.
- i) The hearing officer shall conduct the hearing in a fair, impartial, and orderly manner. The hearing officer shall afford each party an opportunity to present the evidence, testimony, and arguments each party believes necessary to support and/or clarify the issues in dispute and the relief the party is requesting. The hearing officer shall regulate the course of the hearing and the conduct of the parties and their counsel.
- j) The hearing shall be closed to the public unless the parents of the child specifically request that it be open. The hearing officer shall advise the parents of their right to have the hearing open to the public. If the parents make such a request, the hearing shall be open. (References to parents in this subsection (j) apply to the student if Section 226.690 of this Part applies.)
- k) The parties shall have the right to confront and cross-examine witnesses.

Section 226.630 Qualifications, Training, and Service of Impartial Due Process Hearing Officers

- a) In order to be considered for training as an impartial due process hearing officer, an individual either must hold a master's degree or a juris doctor degree or must hold a bachelor's degree in combination

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

with relevant experience.

- 1) For purposes of this Subpart G, "relevant experience" means at least three years' experience, whether paid or voluntary, in special education, disability-related issues, or advocacy.
- 2) Employees of the State Board of Education, school districts, special education cooperatives, regional service areas or centers, regional educational cooperatives, State-operated elementary and secondary schools, or private providers of special education facilities or programs may not serve as impartial due process hearing officers. [105 ILCS 5/14-8.02a(c)]
- 3) Except as provided in Section 14-8.02a(f) of the School Code, former employees of, and current or former contractors to, the State Board of Education, school districts, special education cooperatives, regional service areas or centers, regional educational cooperatives, state-operated elementary and secondary schools, or private providers of special education facilities or programs shall not be disqualified as potential hearing officers by virtue of such employment or service.
- b) An individual wishing to be considered as an impartial due process hearing officer shall submit an application to the State Board. In completing the application form, which shall be provided by the State Board, the individual shall disclose at least the following information:
 - 1) name and address;
 - 2) degree(s) held;
 - 3) current employment status, including if applicable the employer's name and the title of the employee's position;
 - 4) school district of residence; and
 - 5) professional background and relevant experience.
- c) Persons who have complied with the requirements of subsections (a) and (b) of this Section shall, if recommended by the Screening Committee pursuant to Section 14-8.02a(b) of the School Code, then be invited to complete a training course conducted as provided in Section 14-8.02a(d) of the School Code. Failure to complete this training course successfully shall result in ineligibility to serve as a hearing officer.
- d) Based on the recommendations of the training entity, interviews, and supporting information, the due process screening committee, applying the objective criteria developed by the Advisory Council on Education of Children with Disabilities, shall recommend to the Advisory Council those candidates to be appointed as impartial due process hearing officers. The number of candidates recommended shall equal 150% of the number deemed necessary by the State Board of Education.
- e) Each hearing officer shall at least annually attend a review session and/or training course pursuant to Section 14-8.02a(d) of the School Code. Failure to attend a required review session or training course shall result in the hearing officer's termination.
- f) Conditions of Service

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

Hearing officers' terms of service and subsequent reappointment shall be as provided in Section 14-8.02a(d) and (e) of the School Code.

- 1) A hearing officer shall accept each case to which he or she is assigned, unless:
 - A) the hearing officer is ill;
 - B) the hearing officer has a personal, professional, or financial interest which would conflict with his or her objectivity with respect to a particular case; or
 - C) the hearing officer is ineligible to accept a particular case pursuant to Section 226.635(a) of this Part.
 - 2) A hearing officer whose other commitments will interfere with his or her ability to accept cases for more than 15 days shall so notify the State Board of Education in writing.
- Section 226.635 Appointment of Impartial Due Process Hearing Officer**
- a) Upon receipt of a request for a hearing the State Board shall, within five days (one day for an expedited hearing) and using the rotation system called for in Section 14-8.02a(f) of the School Code, appoint an impartial due process hearing officer and notify that individual and the parties of his or her appointment. Prior to making any appointment, the State Board shall review the background of the prospective appointee in order to establish that:
 - 1) the individual has never been employed by or administratively connected with the school district or special education cooperative involved in the case;
 - 2) the individual is not a resident of the district involved; and
 - 3) the prospective appointee has no apparent personal, professional, or financial interest that would interfere with his or her objectivity regarding the matter at issue.
 - b) An appointee who does not meet the requirements set forth in subsection (a) of this Section shall recuse himself or herself within five days after receiving notification of the appointment, except that an appointee in an expedited hearing shall recuse himself or herself immediately if recusal is necessary. Notification to the State Board of such recusal may occur by telephone, provided that a written statement is also supplied.
 - c) A party to a due process hearing conducted under Section 14-8.02a of the School Code shall be permitted one substitution of a hearing officer as a matter of right [105 ILCS 5/14-8.02a(f)]. A request for a substitute hearing officer shall be made in writing to the State Board of Education within five days after the verified date of delivery of the notification at the last known address. In the event that both parties submit written requests on the same day and both should be received simultaneously, the State Board of Education shall deem the substituting to have been at the request of the party initially requesting the hearing. The right of the other party to a substitution will thereby be absolutely protected.

STATE BOARD OF EDUCATION

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

NOTICE OF ADOPTED RULES

d) Section 14-8.02a(f) of the School Code contemplates two situations requiring the appointment of a hearing officer other than the individual who originally receives the case under the rotation system and specifies different methods of selecting a replacement.

1) When the appointed hearing officer is unavailable or refuses himself or herself before the parties are notified of his or her appointment, the State Board shall appoint the next scheduled hearing officer under the rotation system.

2) When a hearing officer refuses himself or herself after learning the circumstances of a case, or when a party to the hearing submits a proper request for substitution, the State Board shall select and appoint another hearing officer at random.

Section 226.640 Scheduling the Hearing and Pre-Hearing Conference

The provisions of this Section shall not apply to expedited hearings conducted pursuant to Section 226.655 of this Part.

a) Within five days after receiving written notification by the State Board, the appointed hearing officer shall contact the parties to determine a time and place reasonably convenient to the parties and otherwise in accordance with Section 14-8.02a(g) of the School Code for convening the hearing and pre-hearing conference.

b) The hearing officer shall provide the parties at least ten days' written notice of the dates, times, and locations of the pre-hearing conference and the hearing.

c) Either party may request a delay in convening the hearing and/or the pre-hearing conference. The party requesting a delay shall do so in writing to the hearing officer, with a copy sent at the same time to the other party. The requesting party shall set forth the reasons for the request. The hearing officer shall either grant or deny the request and shall so inform the parties and the State Board of Education in writing. The hearing officer shall determine a new time and date for convening the hearing and/or pre-hearing conference.

1) If the parties jointly propose a delay in convening the hearing or pre-hearing conference, it shall be delayed as agreed. The hearing officer, being advised of such agreement, shall confirm the delay in writing to the parties and the State Board of Education. Such notice shall become part of the administrative record.

2) If the parties cannot agree to a mutually convenient time and place for convening the hearing and/or pre-hearing conference, the hearing officer shall fix such time and place, notify the parties in writing, and proceed to convene and conduct the pre-hearing conference and hearing, provided that the delay shall not continue for a period longer than necessitated by the circumstances that precipitated the delay.

Section 226.645 Conducting the Pre-Hearing Conference

a) The hearing officer shall convene the pre-hearing conference in accordance with Section 14-8.02a(g) of the School Code.

b) Any party to the pre-hearing conference shall be permitted to participate by teleconference (Section 14-8.02a(g) of the School Code). It shall be the responsibility of the parties to ensure that any information required at the pre-hearing conference is received by the hearing officer and the other party at or prior to the conference.

c) At the conclusion of the pre-hearing conference, the hearing officer shall prepare a report of the conference that shall be entered into the hearing record. The report shall include, but need not be limited to:

- 1) the issues, the order of presentation, and any scheduling accommodations that have been made for the parties or witnesses;
- 2) a determination of the relevance and materiality of documents or witnesses, if raised by a party or the hearing officer; and
- 3) such stipulations of fact as have been agreed to during the pre-hearing conference.

d) The provisions of this Section shall not apply to expedited hearings conducted pursuant to Section 226.655 of this Part.

Section 226.650 Child's Status During Due Process Hearing

a) Except as provided in Section 226.655 of this Part, during the pendency of any administrative or judicial proceeding regarding a due process hearing decision, the child shall remain in his or her current educational placement unless the State or local agency and the parents of the child agree otherwise.

b) If the due process hearing involves an application for initial admission to the public school, the child, with the consent of the parents, shall be placed in the public school until the completion of all the proceedings.

c) If the decision of a hearing officer agrees with the child's parents that a change of placement is appropriate, that placement shall be treated as an agreement between the State or local agency and the parents for purposes of subsection (a) of this Section.

Section 226.655 Expedited Due Process Hearing

Requests for expedited due process hearings shall be made in accordance with Section 14-8.02b of the School Code.

a) The State Board of Education shall arrange for an expedited hearing when:

1) The local school district requests such a hearing because school personnel maintain that it is dangerous for the child to be in the current placement.

2) The parent requests such a hearing because the parent disagrees with the district's placement decision when a child is moved to an interim alternative educational setting for a weapon or drug

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

- violation.
- 3) The parent requests such a hearing because the parent disagrees with the district's determination that a child's behavior was not a manifestation of the child's disability.
 - b) During the pendency of an expedited hearing, the child's placement shall be the interim alternative educational setting that was determined appropriate by the IEP team.
 - c) The hearing officer shall determine:
 - 1) whether the child shall be placed in the proposed alternative educational setting; or
 - 2) whether the local school district has demonstrated that the child's behavior was not a manifestation of the child's disability (see Section 226.410 of this Part).
 - d) The hearing officer shall consider the following factors in determining whether an interim alternative placement is appropriate:
 - 1) Whether the local school district has demonstrated by substantial evidence (i.e., beyond a preponderance of the evidence) that maintaining the current placement of the child is substantially likely to result in injury to the child or to others;
 - 2) Whether the child's current placement is appropriate;
 - 3) Whether the district has made reasonable efforts to minimize the risk of harm in the child's current placement, including the use of supplementary aids and services; and
 - 4) Whether the interim alternative educational setting will permit full implementation of the student's IEP and includes services and modifications designed to prevent the undesired behavior from recurring.
 - e) If all the conditions set forth in subsection (d) of this Section are met, the hearing officer shall order a change in the child's placement to an appropriate interim alternative educational setting for not more than 45 days.
 - 1) This new alternative educational setting shall be identified by the IEP team as provided in Section 226.400(h) of this Part.
 - 2) If the district demonstrates that the student is substantially likely to injure himself or herself or others if returned to the placement that was used prior to the student's removal, the hearing officer may order that the student remain in the interim setting for subsequent periods of up to 45 days each.
 - f) An expedited hearing shall result in a decision within ten school days after the request for the hearing, unless the parents and the local school district agree otherwise.

Section 226.660 Powers and Duties of Hearing Officer

- a) *Once appointed, the impartial due process hearing officer shall not communicate with the State Board of Education or its employees concerning the hearing [105 ILCS 5/8.02a(g)] and shall not initiate or participate in any ex parte communications with the parties, except as*

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

- provided in Section 14-8.02a(g) or 14-8.02b of the School Code, as applicable.
- b) The hearing officer shall disclose any actual or potential conflict of interest to the parties upon learning of such a conflict.
 - c) The hearing officer shall conduct the hearing and, with respect to the hearing, shall have, but is not limited to, the following powers:
 - 1) to administer, or to authorize the court reporter to administer, oaths;
 - 2) to examine witnesses;
 - 3) to authorize the issuance of subpoenas;
 - 4) to rule upon the admissibility of evidence;
 - 5) to order independent evaluations;
 - 6) to grant specific extensions of time;
 - 7) to read into the hearing record any other stipulations of fact and other matters agreed upon at the pre-hearing conference and to enter into the record any pre-hearing orders;
 - 8) To render decisions and issue orders and clarifications.
 - d) The hearing officer shall comply with timelines established in Section 14-8.02a or Section 14-8.02b of the School Code, as applicable.

Section 226.665 Record of Proceedings

The hearing officer shall ensure that an electronic verbatim record of the hearing is made in the format of the parent's choice (such as by tape recording or by a court reporter). The hearing officer shall also ensure that all written evidence presented at the hearing is marked to indicate the party offering the evidence and is made part of the administrative record. The parents or the district may obtain a copy of the verbatim record of the hearing. The State Board and the district shall share equally the cost of providing these copies.

Section 226.670 Decision of Hearing Officer: Clarification

- a) Within ten days after the conclusion of the hearing (two days for an expedited hearing), the hearing officer shall issue a written decision that sets forth the issues in dispute, findings of fact based upon the evidence and testimony presented, and the hearing officer's conclusions of law and orders. The hearing officer shall order the parties to take all steps necessary to ensure appropriate placement and services for any student found to be eligible for special education services. The hearing officer shall specify the procedures necessary to ensure timely compliance with his or her order, in accordance with Section 14-8.02a(j) of the School Code.
- b) The hearing officer's decision shall be sent by certified mail to the parties enumerated in Section 14-8.02a(h) of the School Code. The decision shall be translated into the native language of the parents if their primary language is other than English.
- c) A written decision shall be binding upon the parties unless a party

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

aggrieved by the decision commences a civil action as provided in Section 14-8.02a(i) of the School Code.

d) As provided in Section 14-8.02a(h) of the School Code, the hearing officer shall retain jurisdiction after issuance of his or her decision for the sole purpose of considering a request for clarification. A request for clarification shall be submitted and acted upon as provided in Section 14-8.02a(h) of the School Code. In the case of an expedited hearing, the hearing officer shall retain jurisdiction either until the 45th day after the initial removal of the student or until 45 days after that hearing officer's latest decision in the case.

e) The hearing decision, if not appealed pursuant to subsection (c) of this Section, shall be enforced by the State Board as provided in Section 226.675 of this Part.

Section 226.675 Monitoring and Enforcement of Decisions; Notice of Ineligibility for Funding

Upon receipt of the hearing officer's decision, the State Board of Education shall review the decision and monitor compliance by the parties with the terms of the decision. If the district fails to comply with the decision in the time specified by the hearing officer, the State Board of Education shall notify the parties in writing by certified mail that it finds the district to be in noncompliance with the decision, and that the noncompliance may result in loss of recognition status of the district's programs by the State, withholding of State or federal funds which the district would otherwise be eligible to receive, or in other enforcement action unless the district remedies the noncompliance within the time period specified in the notice of noncompliance.

Section 226.680 Reporting of Decisions

The State Board of Education shall, after deleting all personally identifiable information and indexing by subject matter, make the decisions of impartial process hearing officers available to the Illinois State Advisory Council on Education of Children with Disabilities, to impartial due process hearing officers, and to the Screening Committee established pursuant to Section 14-8.02a(b) of the School Code. This information shall also be available to other interested parties upon request.

Section 226.690 Transfer of Parental Rights

a) When a student with a disability reaches the age of majority (18 years of age; see 755 ICES 5/11-1) or becomes an emancipated minor pursuant to the Emancipation of Mature Minors Act (750 ICES 30) (except for a student with a disability who has been adjudged as a disabled person pursuant to 755 ICES 5/Art. 11a):

- 1) The school district shall provide any notice required by this Part to both the individual and the parents, and all other rights

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

accorded to parents under Part B of the Individuals with Disabilities Education Act, the implementing regulations at 34 CFR 300, and this Part shall transfer to the student; and

2) All rights accorded to parents under Part B of the Individuals with Disabilities Education Act, the implementing regulations at 34 CFR 300, and this Part shall transfer to a child who is incarcerated in an adult or juvenile, State, or local correctional institution.

b) Whenever rights are transferred to a student pursuant to this Section, the district shall notify the student and the parents of the transfer of rights.

SUBPART H: ADMINISTRATIVE REQUIREMENTS

Section 226.700 General

- a) Each school district shall provide and maintain appropriate and effective educational programs, at no cost to the parents, for all eligible children who are residents of the district.
- b) Each school district shall establish and implement a goal of ensuring full educational opportunity for all children with disabilities in its service area. Each district shall make available to children with disabilities the variety of educational programs and services available to nondisabled children in the area served by the district, including art, music, industrial arts, consumer and homemaking education, and vocational education.
- c) Special education and related services shall be established and conducted as an integral part of the district's educational effort.
- d) Each school district, independently or in cooperation with other districts, shall provide a comprehensive program of special education for children with disabilities who are from three through 21 years of age and who are residents in the district. A "comprehensive program" is one that includes:
 - 1) A viable organizational and financial structure;
 - 2) Systematic procedures for identifying and evaluating the need for special education and related services;
 - 3) A continuum of appropriate alternative placements available to meet the needs of children for special education and related services (see Section 226.300 of this Part);
 - 4) Qualified personnel who are employed in sufficient number to provide:
 - A) Administration of the program;
 - B) Supervisory services;
 - C) Instructional and resource services;
 - D) Related services; and
 - E) Transportation services;
 - 5) Appropriate and adequate facilities, equipment and materials;
 - 6) Functional relationships with public and private agencies that

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

can supplement or enhance the special education services of the public schools;

- 7) Interaction with parents and other concerned persons that facilitates the educational development of children with disabilities;
- 8) Procedures for internal evaluation of the special education services provided; and
- 9) Continuous planning for program growth and improvement based on internal and external evaluation.

e) A school district is the primary agent for the delivery of special education services. Districts may carry out their obligations with regard to special education by forming cooperatives or joint agreements. These entities are:

- 1) Authorized by State law to develop, manage, and provide services or programs on behalf of school districts;
- 2) Recognized as agencies for purposes of the provision of special education and related services provided within public elementary and secondary schools of the State;
- 3) Considered as service agents of the participating districts; and
- 4) Directed by, and responsible to, all the participating local districts.

f) Special education and related services which would not comply with specific requirements of this Part shall require written approval from the State Board of Education prior to their implementation. A district's request for approval shall be submitted in writing to the State Board and shall include a description of the district's proposal. In determining whether to approve such a request, the State Board's staff shall consider whether the proposed program or service will compromise students' educational opportunity or prevent the full implementation of any student's IEP, in light of such factors as the students' disabilities and the proposed class size, staff qualifications, physical plant and evaluation plan. Denial of such a request may be appealed to the State Superintendent of Education.

Section 226.710 Policies and Procedures

a) Each local school district, or the cooperative entity of which it is a member, shall develop written policies and procedures conforming to the requirements of subsection (b) of this Section and shall submit these to the State Board of Education for approval, using a format supplied by the State Board. The State Board shall approve those which conform to the requirements of this Section and are consistent with applicable federal and State statutes and regulations. The State Board shall notify districts of any deficiencies that must be remedied before approval will be granted.

b) Each set of policies and procedures shall address the district's compliance with at least the requirements for:

- 1) the provision of a free appropriate public education;

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

- 2) child find;
- 3) evaluation and determination of eligibility;
- 4) Individualized Education Programs;
- 5) students' participation in assessments;
- 6) serving students in the least restrictive environment;
- 7) the provision of extended school year services;
- 8) transition of children served under Part C of the Individuals with Disabilities Education Act into preschool programs;
- 9) serving students who attend nonpublic schools;
- 10) procedural safeguards;
- 11) establishing the goal of full educational opportunity;
- 12) confidentiality of personally identifiable information; and
- 13) the use of federal matching funds under the Medicaid (Title XIX) or Children's Health Insurance (KIDCare; Title XXI) program to supplement special education programs and services (if the district is participating in one or more of those federal programs).

c) Any revision of a set of policies and procedures shall be submitted to the State Board for approval prior to its implementation.

- d) Each set of policies and procedures shall constitute a public document.

Section 226.720 Facilities and Classes

a) Facilities used for special education services shall be appropriate to, and adequate for, the specific programs or services for which they are used and, pursuant to Section 14-8.01 of the School Code, shall be subject to the applicable provisions of 23 Ill. Adm. Code 180 (Health/Life Safety Code for Public Schools). Such facilities shall be comparable to those provided to the students in the general education environment.

b) The age range of students within a special education grouping shall not exceed four years at the elementary level and six years at the secondary level. Early childhood classes and services shall serve only children from three through five years of age.

c) Special education classes and services shall be delivered in age-appropriate settings.

Section 226.730 Case Load/Class Size

A regular education classroom is one that is composed of students of whom at least 70 percent are without identified special education eligibility, that utilizes the general curriculum, that is taught by an instructor certified for regular education, and that is not designated as a general remedial classroom. In the formation of special education classes, consideration shall be given to the age of the students, the nature and severity of their disability, and the degree of intervention necessary.

- a) A student shall be considered to require "instructional services" when

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

he or she receives special education instruction for 50 percent of the school day or more. Classes and services for such students shall be subject to the limitations of this subsection (a).

- 1) Early childhood instructional classes or services shall have a maximum ratio of one qualified teacher to five students in attendance at any given time; total enrollment shall be limited according to the needs of the students for individualized programming.

- 2) Instructional classes or services for students who have either a severe/profound disability or multiple disabilities as defined in Section 226.75 of this Part shall have a maximum enrollment of five students.

- 3) Instructional classes or services for children whose primary disability is a severe visual, auditory, physical, speech or language impairment, autism, traumatic brain injury, or an emotional disturbance or behavioral disorder shall have a maximum enrollment of eight students.

- 4) Instructional classes or services for children whose primary disability is a specific learning disability or that serve children who have different disabilities shall have a maximum enrollment of ten students. Instructional programs that group students who have different disabilities shall be formulated only under the following circumstances:

- A) the students are grouped in relation to a common educational need; or

- B) the program can be completely individualized and the teacher is qualified to plan and provide an appropriate educational program for each student in the group.

- 5) Instructional classes or services designed for children whose primary disability is moderate visual or auditory impairment shall have a maximum enrollment of twelve students.

- 6) Instructional classes or services for children whose primary disability is mild/moderate mental impairment shall have a maximum enrollment of 12 students at the primary level and 15 students at the intermediate, middle, junior high, and secondary levels.

- 7) A school district may increase the enrollment in an instructional class or service by a maximum of two students in response to unique circumstances which occur during the school year. Such additions may be made only when the educational needs of all students who would be enrolled in the expanded program can be adequately and appropriately met. Alternatively, the district may increase the enrollment in an instructional class or service by a maximum of five students when a full-time, noncertified assistant is provided.

- b) A student shall be considered to require "resource services" when he or she receives special education instruction for less than 50 percent of the school day. Classes and services for such students shall be

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

subject to the limitations of this subsection (b).

- 1) Enrollment shall be limited to the number of students who can effectively and appropriately receive assistance, up to a maximum of 20 students.

- 2) The teacher or service provider shall participate in determining the appropriate enrollment.

- 3) The number of children served by a speech-language pathologist shall be based on the speech-language needs of each child. At no time shall the caseload exceed 80 students and, beginning September 1, 2003, the caseload of a speech-language pathologist shall not exceed 60 students.

- 4) A school district may not increase the enrollment in a resource class or service when a noncertified assistant is provided.

- c) The case load/class size for any service provider includes each student who receives direct or indirect service, such as consultation services, as delineated in an IEP.

Section 226.740 Records; Confidentiality

- a) Students' records shall be maintained in accordance with the School Student Records Act (105 ILCS 101) and the rules of the State Board of Education (23 Ill. Adm. Code 375).

- b) Each school district shall protect the confidentiality of personally identifiable information during its collection, storage, disclosure, and destruction.

- c) All persons collecting or using personally identifiable information shall receive training or instruction regarding the State's and school district's policies and procedures and the requirements of this Part for ensuring the confidentiality of any personally identifiable information collected, used or maintained.

- d) Each school district shall maintain, for public inspection, a current listing of the names and positions of those employees within the local school district who may have access to personally identifiable information.

- e) Parents shall be afforded the opportunity to inspect, review, and copy all educational records with respect to the identification, evaluation, educational placement, and provision of FAPE to their child.

- f) The portion of each district's policies and procedures that is required pursuant to Section 226.710(b)(3) of this Part shall require that all information maintained concerning a student receiving special education be directly related to the provision of services to that child and shall address:

- 1) the method by which information concerning a student will be collected;
- 2) the confidential nature of such information;
- 3) the use to which such information will be put;
- 4) how such information will be recorded and maintained;

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

- 5) the period for which such information will be maintained;
 - 6) the persons to whom such information will be available; and
 - 7) under what circumstances such information will be made available.
- g) The portion of each district's policies and procedures referred to in subsection (f) of this Section shall be consistent with:
- 1) The Illinois School Student Records Act;
 - 2) 23 Ill. Adm. Code 375 (Student Records); and
 - 3) 23 Ill. Adm. Code 1 (Public Schools Evaluation, Recognition and Supervision);
 - 4) The Family Educational Rights and Privacy Act; and
 - 5) The Illinois Domestic Violence Act of 1986 [750 ILCS 60].

Section 226.750 Additional Services

The additional services and activities referred to in this Section shall be provided to students whose IEPs require them. In each such case, the relevant requirements of this Section shall apply.

- a) Assistive Technology
 - 1) The responsible school district shall furnish such assistive technology devices as a child's IEP may prescribe, including providing these in the child's home if required in order for the child to receive FAPE.
 - 2) Each school district shall ensure that hearing aids and assistive technology or adaptive devices are functioning properly.
- b) Behavioral Intervention
 - 1) School districts shall establish local policies and procedures on the use of positive behavioral interventions to manage, intervene in, or change the behavior of students with disabilities.
 - 2) Each district's policies and procedures shall require that IEP teams consider strategies including positive behavioral interventions and supports to address behavior(s) which impede a child's functioning or that of other children in the academic setting or in noninstructional contexts such as regular transportation and extracurricular activities. The district's policies and procedures shall include criteria for determining when a particular student's possible need for a behavioral intervention plan should be reviewed.
 - 3) Behavioral interventions shall be used in consideration of the child's physical freedom, social interaction, and right to placement in the least restrictive environment and shall be administered in a manner that respects human dignity and personal privacy.
- c) Extended School Year
 - 1) A school district shall not limit its provision of services during an extended school year to particular categories of disability, nor shall a district unilaterally limit the type, amount, or duration of such services.
- d) Physical Education

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

Physical education services, specially designed if necessary, shall be made available to every child receiving FAPE.

- 1) Each child with a disability shall participate in a regular physical education program available to nondisabled children unless the child is receiving services full time in a separate facility or needs specially designed physical education, as prescribed in the child's IEP.

- 2) If a child is receiving services full time in a separate facility, the school district shall ensure that he or she receives physical education services appropriate to his or her needs.

e) Transportation

Each child who is eligible for special education and related services pursuant to this Part shall be eligible for special transportation. Such transportation shall be provided as the child's disability or the program location may require.

- 1) Arrival and departure times shall ensure a full instructional day which is comparable to that of the regular education students. Any deviation from this standard must be based upon the individual needs of the child and reflected in the child's IEP.
- 2) Every effort should be made to limit the child's total travel time to not more than one hour each way to and from the special education facility.
- 3) The special transportation shall be scheduled in such a way that the child's health and ability to relate to the educational experience are not adversely affected.
- 4) Vehicles utilized for special transportation shall be adapted to the specific needs of the children receiving this service.
- 5) Personnel responsible for special transportation shall be given training experiences which will enable them to understand and appropriately relate to children with disabilities.
- 6) When a district has placed students in a State-operated or nonpublic day program, the district shall provide transportation for the children in that program.
- 7) When a child is placed in a residential facility, the school district shall provide transportation services for the child's initial trip to the facility and return home at the close of the school term. The district shall likewise provide transportation for the child at the beginning and end of each school term thereafter.
 - A) If the district assumes responsibility for transportation arrangements, it shall provide reasonable notice to parents of departure dates and times. It shall in all instances notify the parents within 48 hours after completing those arrangements.
 - B) The mode(s) of travel and degree of support and supervision to be provided shall be included in the student's IEP.
 - C) The district shall provide transportation services for one

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

round trip home, at a midterm break or at another time as mutually agreed by the district and the parents, and at any additional time when the facility is to be temporarily closed.

D) The school district shall provide round-trip transportation at any time the district seeks additional diagnostic assessments of the student or if the parent wishes the child to be present during a due process hearing.

E) The school district shall provide round-trip transportation in emergencies such as serious illness of the child or death or imminent death of an individual in the child's immediate family. "Immediate family" includes a parent, a grandparent, a sibling, or any person who resides in the child's immediate household. If the district questions the severity of an illness of the child or an immediate family member, it may require the opinion of a licensed physician to corroborate the severity of the illness.

F) The school district may also provide transportation services to encourage family contacts and/or to reintegrate the child into the home and community. The district shall have the authority to determine, upon consultation with the parents, when transportation is "appropriate for this purpose and shall incorporate this decision, with the specific reasons for it, into the student's IEP."

f) Vocational Education

Students eligible pursuant to this Part shall receive vocational education in accordance with their individual IEPs.

1) Community work experiences that are part of a student's IEP shall occur during the school day, unless this is precluded by the nature of the experiences.

2) Participation in community work experiences shall be in accordance with the student's IEP and applicable child labor laws.

3) All community work experiences which are provided by the school as part of the IEP and for which the student receives educational credit shall be supervised by school personnel.

Section 226.760 Evaluation of Special Education

a) The extent to which a school district is fulfilling its responsibilities to children with disabilities shall be determined by the State Board of Education. Official representatives of the State Board shall be authorized to examine all documentation, including student records, which would facilitate such determination.

b) Evaluation by the State Board of Education shall focus on the district's provision of special education services, on each special education cooperative organization of which it is a participant, and on community resources utilized by the district.

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

c) Evaluation of special education services shall be based on all of the following elements:

1) Comprehensive Plan
Each district or cooperative entity shall have in place a comprehensive plan conforming to the requirements of 34 CFR 300.137 that describes the district's provision of special education services, its plan for program improvement, and those factors unique to the individual district or cooperative which must be considered in the evaluation. This plan shall be reviewed at least triennially and revised as needed to reflect the district's current circumstances. The resulting revisions shall be filed with the State Board of Education. Alternatively, a district may submit a statement indicating that its triennial review did not reveal a need for any changes. The plan shall be a public document.

2) Policies and Procedures

The State Board shall consider the adequacy of the policies and procedures developed pursuant to Section 226.710 of this Part.

3) Continuous Internal Evaluation

Each district or cooperative entity shall develop and implement procedures to assess the extent to which children with disabilities are being adequately served and the effectiveness of each special education service.

4) Records

Each district or cooperative entity shall maintain records to demonstrate compliance with the assurances it furnishes in its applications for State and federal funds.

d) The State Board of Education shall provide written reports of its evaluations and any subsequent recommendations or actions to the appropriate board(s) of education.

e) Compliance with the requirements of this Part shall be a factor in determining a district's recognition status pursuant to 23 Ill. Adm. Code 1 (Public Schools Evaluation, Recognition and Supervision).

f) A district that receives an unfavorable evaluation of its compliance with the requirements of this Part shall have the opportunity to request a hearing pursuant to the Illinois Administrative Procedure Act (5 ILCS 100) and the State Board's rules for Contested Cases and Other Formal Hearings (23 Ill. Adm. Code 475).

Section 226.770 Fiscal Provisions

a) Requirements Related to the Provision of FAPE

1) A school district is responsible for developing students' IEPs and remains responsible for ensuring that children receive all the services described in their IEPs in a timely fashion, regardless of whether another agency will ultimately pay for the services.

2) A school district may look to non-educational entities such as

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

insurance companies and the Medicaid program to pay for services for which such entities are otherwise responsible. The district must have written consent from parents in order to use their private insurance.

- 3) Services required by an IEP must be provided at no cost to the child's parents, whether they have public or private insurance. Parents shall be notified that the use of their private insurance proceeds to pay for services is voluntary. In the case of a child who is dually insured (through private insurance and Medicaid), a family shall not be required to draw upon private insurance whose use is a prerequisite to billing Medicaid if that use of insurance will result in financial costs to the family.
- 4) "Financial costs to the family" include:
 - A) Out-of-pocket expenses incurred in filing a claim, such as the payment of a deductible or required co-payment, but not including incidental costs such as the time needed to file an insurance claim or the postage needed to mail the claim;
 - B) A decrease in available lifetime coverage or any other benefit under an insurance policy;
 - C) Payment by the family for services that would otherwise be covered by the public insurance program and that are required for the child outside of the time the child is in school;
 - D) An increase in premiums or the discontinuation of a policy; and
 - E) A risk in terms of loss of eligibility for home- and community-based waivers, based on aggregate health-related expenditures.

- b) The federal regulations implementing the Individuals with Disabilities Education Act (see 34 CFR 300) establish detailed requirements for the use of federal funds in connection with service to students who are eligible under this Part. School districts and cooperative entities are required to comply with those federal requirements.
- c) School districts and cooperative entities shall use federal matching funds received under Medicaid or the KidCare program only to supplement special education programs and services. Each school district or cooperative entity shall submit an annual record of its expenditures of these funds on a form supplied by the State Board of Education.

- d) Computation of Reimbursement Under Section 14-7.03 of the School Code. The amount of reimbursement for which a district shall be eligible under Section 14-7.03 of the School Code shall be computed by determining the actual cost of maintaining the program in accordance with the State Board's rules for Determining Special Education Per Capita Tuition Charge (23 Ill. Adm. Code 130), as further specified in this subsection (d).

- 1) The district's cost for administration and supervision shall be computed based on the relationship that the average daily

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

membership of children in special education classes bears to the district's total average daily membership.

- 2) The cost of buildings and facilities shall not exceed 10% of the expenditures for classes.
- 3) All payments authorized by law, including State or federal grants for the education of children, shall be deducted when program reimbursement or per capita tuition is calculated.
- 4) The total reimbursement for a child who is living in a residential care facility and who has been placed in a nonpublic special education program by the responsible district shall not exceed the amount authorized under Section 14-7.02 of the School Code.

- e) Eligibility of Students for Funding Under Section 14-7.03 of the School Code

- 1) A student who meets the requirements of Section 14-1.1la(5) of the School Code [105 ICS 5/14-1.1la(5)] is eligible for reimbursement under Section 14-7.03 of the School Code if he or she:
 - A) is a resident of one of the residential care facilities described in Section 226.320 of this Part;
 - B) would not be a resident of that school district except by virtue of his or her placement in one of the residential care facilities described in Section 226.320(a) of this Part; and
 - C) has been declared eligible for special education and related services pursuant to this part.

- 2) A student who has been declared eligible for special education and related services pursuant to this Part and is living in a State residential unit or county-operated detention center is eligible for reimbursement under Section 14-7.03 of the School Code.

SUBPART I: PERSONNEL

Section 226-800 Personnel Required to be Qualified

- a) General

- 1) Each school district, or the cooperative entity of which it is a member, shall employ sufficient professional and noncertified personnel to deliver and supervise the full continuum of special education and related services needed by the eligible students who reside in the district. The number and types of personnel employed shall be based on students' need rather than administrative convenience.
- 2) Each district or cooperative entity shall periodically submit to the State Board of Education, on forms supplied by the State Board, the roster of the individuals who will be or are providing special education or related services. The State Board may

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

request any additional documentation needed in order to verify that each such individual holds the qualifications that are required for his or her assignment(s).

- 3) Reimbursement for personnel expenditures shall be made by the State Board only with respect to individuals who are qualified pursuant to this Section or pursuant to Section 226.810 or 226.820 of this Part.
- 4) Each district or cooperative entity shall develop and implement a comprehensive personnel development program for all personnel involved with the education of children with disabilities.
- b) Professional Instructional Personnel
Each individual employed in a professional instructional capacity shall hold either:
 - 1) a valid special certificate and the qualifications required for the teaching area pursuant to 23 Ill. Adm. Code 25.40 and 25.43; or
 - 2) another valid teaching certificate and approval issued by the State Board of Education specific to the area of responsibility (see Section 226.810 of this Part).
- c) An individual assigned as a vocational coordinator shall:
 - 1) have two years' teaching experience;
 - 2) hold either a special certificate or a high school certificate;
 - 3) have completed at least 16 semester hours of college coursework, which shall at least include each of the areas identified in subsections (C)(3)(A) through (D) and may include one or more of the areas identified in subsections (C)(3)(E) through (I) of this Section:
 - A) Survey of the exceptional child;
 - B) Characteristics of the mentally retarded student;
 - C) Characteristics of the socially and/or emotionally maladjusted student;
 - D) Vocational programming for students with disabilities;
 - E) Characteristics of other exceptionalities;
 - F) Methods course in special education;
 - G) Guidance and counseling;
 - H) Educational and psychological diagnosis;
 - I) Vocational and technical education; and
 - 4) submit evidence of meeting the requirements of this subsection (C) under cover of an application form supplied by the State Board of Education.
- d) An individual assigned as a teacher coordinator shall:
 - 1) hold either a special certificate endorsed for the disability area of assignment or a high school certificate with special education approval in the applicable disability area issued pursuant to Section 226.810 of this Part;
 - 2) have completed a course in vocational programming for students with disabilities;
 - 3) have at least one year's work experience outside the field of

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

education or have completed at least one course in either guidance and counseling or vocational and technical education; and

- 4) submit evidence of meeting the requirements of this subsection (C) under cover of an application form supplied by the State Board of Education.
- e) An individual assigned as a business manager's assistant shall hold an administrative certificate endorsed for chief school business official pursuant to 23 Ill. Adm. Code 25.344.
- f) Qualified Bilingual Specialists
Professional staff otherwise qualified pursuant to this Section shall be considered "qualified bilingual specialists" if they meet the applicable requirements set forth in this subsection (f).
 - 1) A holder of a special certificate endorsed in the area of responsibility pursuant to 23 Ill. Adm. Code 25.40 or 25.43 shall successfully complete a language examination in the non-English language of instruction and shall have completed coursework covering:
 - A) Psychological/educational assessment of students with disabilities who have limited English proficiency;
 - B) Theoretical foundations of bilingual education and English as a second language, including the study of first and second language acquisition; and
 - C) Methods and materials for teaching students of limited English proficiency or students with disabilities who have limited English proficiency.
 - 2) A holder of an early childhood, elementary, or high school certificate who also holds special education approval in the area of responsibility (see Section 226.810 of this Part) shall successfully complete a language examination in the non-English language of instruction and shall have completed the coursework listed in subsections (f)(1)(A), (B), and (C) of this Section.
 - 3) A holder of an early childhood, elementary, or high school certificate who also holds approval to teach bilingual education or English as a second language shall have completed coursework covering:
 - A) Methods for teaching in the special education area of assignment;
 - B) Psychological/educational assessment of students with disabilities who have limited English proficiency, or psychological diagnosis for children with all types of disabilities; and
 - C) Characteristics of students, or characteristics of students with limited English proficiency specifically, in the special education area of assignment.
 - 4) A holder of a transitional bilingual certificate issued pursuant to 23 Ill. Adm. Code 25-90 and endorsed for the language of assignment shall have completed two years of successful teaching

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

- experience and have completed coursework covering:
- A) Survey of children with all types of disabilities;
 - B) Assessment of the bilingual student, or psychological/educational assessment of the student with disabilities who has limited English proficiency;
 - C) Theoretical foundations of bilingual education and English as a second language, including the study of first and second language acquisition;
 - D) Methods for teaching in the special education area of assignment; and
 - E) Characteristics of students, or characteristics of students with limited English proficiency specifically, in the special education area of assignment.
- 5) A holder of a school service personnel certificate endorsed for guidance, school social work, or school psychology shall successfully complete an examination in the non-English language and shall have completed coursework in assessment of the bilingual student or psychological/educational assessment of the student with disabilities who has limited English proficiency.
- 9) Directors and Assistant Directors of Special Education shall hold a valid administrative certificate issued pursuant to 23 Ill. Adm. Code 25.315 and a master's degree, including 30 semester hours of coursework distributed among all the following areas:
- A) Survey of exceptional children;
 - B) Special methods courses (3 areas of exceptionality);
 - C) Educational and psychological diagnosis and remedial techniques;
 - D) Guidance and counseling; and
 - E) Supervision of programs for exceptional children.
- 2) Each individual who will function as a director or assistant director of special education shall submit an application for special education administrative approval on a form supplied by the State Board of Education.
- 3) Each school district, or the cooperative entity of which it is a member, shall employ a full-time director of special education and shall submit to the State Board of Education a letter identifying the individual as the director of special education, along with the minutes of the board(s) of education approving the individual's employment in that capacity. If the individual is qualified as required, the State Board shall confirm that the individual is the State-approved director of special education for the district or cooperative entity.
- 4) The individual employed pursuant to subsection (g)(3) of this Section shall be the chief administrative officer of the special education programs and services of the district or cooperative entity.

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

- h) Supervisors
- 1) Each district or cooperative entity shall employ sufficient supervisory personnel to provide consultation to and coordination of special education services.
 - 2) Each individual performing a supervisory function shall hold a master's degree, including at least 15 semester hours of coursework distributed among all the following areas:
 - A) Survey of exceptional children;
 - B) Characteristics courses(s) in the area(s) to be supervised;
 - C) Methods courses(s) in the areas(s) to be supervised;
 - D) Educational and psychological diagnosis and remedial techniques; and
 - E) Supervision of programs for exceptional children.
 - 3) Each individual performing a supervisory function shall also hold either:
 - A) a valid special certificate in the area to be supervised, endorsed for supervision pursuant to 23 Ill. Adm. Code 25.322, with two years' teaching experience in that area; or
 - B) a valid school service personnel certificate, two years' experience in the area to be supervised, and a valid administrative certificate; or
 - C) a valid administrative certificate and either a valid special certificate endorsed for the area to be supervised or special education approval in that area.
 - 1) Chief Administrator of a special school shall hold an administrative certificate with a general administrative endorsement issued pursuant to 23 Ill. Adm. Code 25.344 and either:
 - 1) the qualifications required under 23 Ill. Adm. Code 25.43 in at least one disability area served by the school; or
 - 2) approval issued by the State Board of Education pursuant to Section 226.810 of this Part for at least one disability area served by the school.
 - 3) Other Professional Personnel

Each individual employed in a professional capacity not specified in subsections (a) through (i) of this Section shall, as appropriate to his or her assignment, hold:

 - 1) the school service personnel certificate endorsed as appropriate to the area of responsibility (see 23 Ill. Adm. Code 25, Subpart D); or
 - 2) a valid license or permission to practice, if the individual's profession is governed by such a requirement and either no educational credential in the same or a related field is issued by the State Board of Education (e.g., for a physical therapist) or the School Code permits the individual to perform the function(s) assigned; or
 - 3) a credential, regardless of title, issued by a professional association or organization in the relevant field, when no

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

educational credential in the same or a related field is issued by the State Board of Education and no license or permission to practice is required by the State (e.g., for a music therapist or a daily living skills specialist).

k) Noncertified personnel

- 1) Each professional noncertified individual employed in a special education class, program, or service, and each individual providing assistance at a work site, shall function under the general direction of a professional staff member.
- 2) Each program assistant/aide, as well as each nonemployee providing any service in the context of special education, shall function under the direct supervision of a professional staff member.
- 3) Each district shall provide training experiences appropriate to the nature of their responsibilities to the individuals identified in subsections (k)(1) and (2) of this Section prior to their initiating services. Such training shall be in lieu of the requirements for noncertified personnel set forth in 23 Ill. Adm. Code 1, Subpart G.

Section 226.810 Special Education Teaching Approval

Special education approval may be issued by the State Board of Education to an individual who does not hold a special certificate or who lacks some of the qualifications for one of the endorsements enumerated in 23 Ill. Adm. Code 25.43.

- a) Special education teaching approval will be issued in the following areas:

- 1) Educable mentally handicapped;
- 2) Learning disabilities;
- 3) Social/emotional disorders;
- 4) Trainable mentally handicapped; and
- 5) Physically handicapped

- b) An individual who holds an early childhood, elementary, or high school certificate shall receive approval to teach in a special education area listed in subsection (a) of this Section if he or she has successfully completed at least one college-level course in each of the following areas:

- 1) Survey of exceptional children;
 - 2) Characteristics of special education students in the specific area of approval sought;
 - 3) Methods of teaching in the area of special education approval sought; and
 - 4) Psychological diagnosis for children with all types of disabilities.
- c) Except as provided in subsection (d) of this Section, an individual who wishes to receive special education teaching approval shall submit an application for a special certificate on a form supplied by the

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

State Board of Education and shall comply with such other application procedures as the State Board may require.

- 1) If the individual qualifies for a special certificate, the State Board shall issue one and endorse it as warranted.
- 2) If the individual does not qualify for a special certificate, the State Board shall evaluate the application for special education approval and either issue such approval or notify the applicant of any deficiencies.
- d) The State Board shall issue early childhood special education approval to an individual who holds either an early childhood certificate or a special certificate in one of the areas of specialization enumerated at 23 Ill. Adm. Code 25.43, provided that the individual makes application for such approval on a form supplied by the State Board demonstrating that he or she has successfully completed coursework in all the following areas:
 - 1) Survey of exceptional children;
 - 2) The development of language in young children;
 - 3) Early childhood assessment; and
 - 4) Early childhood or elementary school curriculum and organization.
- e) Special education approval shall not be limited with regard to time or district of employment but shall be valid only for the special education area(s) indicated and the grade level(s) to which the individual's certificate applies.

Section 226.820 Authorization for Assignment

In the circumstances described in this Section, neither the qualifications required by Section 226.800 of this Part nor special education approval under Section 226.810 of this Part shall be required. When authorized pursuant to this Section, reimbursement shall be available for staff providing special education and related services.

- a) No Fully Qualified Individual Available

1) When a district or cooperative entity demonstrates to the State Board of Education that it is unable to secure the services of an individual who holds the required credentials for a particular assignment, the State Board may authorize the assignment of another individual if the director of special education submits a written request through the regional superintendent of schools, on a form provided by the State Board, that:

- A) describes the position or assignment involved or the services to be provided and identifies the required certificate or approval;
- B) describes the population to be served, including the number of students in each disability category represented;
- C) describes the type and frequency of supervision and technical assistance to be provided to the individual, including the name(s) and title(s) of the supervisor and any

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

other individual(s) who will provide technical assistance;
 D) describes the unique training, education, experience, or other qualifications that will assist the individual in fulfilling the requirements of the position;

E) describes the district's or cooperative entity's efforts to locate a fully qualified individual to fill the position, including contacts with universities, regional superintendents, and the State Board of Education; and
 F) indicates that the individual to be assigned is working toward attainment of the required certificate, endorsement, or approval for the position.

2) The State Board's authorization to assign such an individual shall be specific to the affected position and to the district or cooperative entity requesting the authorization and shall be limited to two years in duration.

b) Interns

The State Board may also authorize the assignment of interns in school psychology, school social work, school nursing, and speech/language pathology who will work under the supervision of fully qualified professionals, subject to the requirements of this subsection (b).

1) For each intern in school psychology, school social work, or school nursing, the director of special education shall submit, on forms supplied by the State Board:

- A) verification provided by an educational institution that the candidate is participating in a formal internship under its auspices; and
- B) a request for authorization to assign the individual to an intern's position.

2) For each intern in speech/language pathology, the director of special education shall submit evidence that the individual holds a valid teaching certificate and has a bachelor's degree in communication disorders. The individual shall also either have completed graduate-level coursework in communication disorders or be enrolled in a program providing such coursework. The director of special education shall provide evidence that the intern will be supervised by an individual who holds a special certificate endorsed for speech and language impaired pursuant to 23 Ill. Adm. Code 25.45.

c) No Specific Credential Required

1) When a school district or cooperative entity needs to fill a position for which no specific certificate, endorsement, or other credential is required, the district or cooperative entity shall seek authorization from the State Board of Education to assign the individual who has been selected.

2) The director of special education shall submit a written request through the regional superintendent of schools, on a form provided by the State Board, that:

- A) describes the position or the service to be provided, why it

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

is needed, and for how long it is expected to be needed; and
 B) describes the training, education, experience, or other qualifications held by the individual selected that will be relevant to the unique needs of the students to be served (e.g., experience in teaching students with similar disabilities, experience in providing the specific service(s) involved).

3) The State Board's authorization to assign such an individual shall be limited to the period for which the service is stated to be needed and shall be specific to the affected position and to the requesting entity.

d) Other Positions Attributed to Special Education

A district or cooperative entity may be reimbursed for the services of other individuals who hold regular education credentials but serve special education students, e.g., a teacher who provides adaptive physical education.

1) In order to claim reimbursement for the services of such individuals, the director of special education shall submit:

- A) A description of the individual's duties and an indication of the certificate required for those duties;
 - B) Information about the special education pupils to be served and the percentage of the individual's time that will be spent serving these students; and
 - C) A description of the individual's related education and experience.
- 2) The State Board's authorization of reimbursement for such individuals shall be specific to the requesting entity but shall not be limited in duration.

Section 226.830 List of Independent Evaluators

a) The State Board of Education shall develop a list of independent educational evaluators who hold the credentials required for the performance of the various evaluation components pursuant to Section 226.840 of this Part.

b) No person shall be included in the State Board's list unless he or she has provided in writing to the State Board the following specific information for each credential for which the Board's acknowledgment is sought:

- 1) name of license, certificate, or other credential;
 - 2) name of credentialing agency or body;
 - 3) number of certificate, license, registration, or other credential;
 - 4) date of issue; and
 - 5) period of validity.
- c) An individual who wishes to be considered a qualified bilingual specialist shall identify any language(s) other than English in which he or she is proficient and identify the specific qualifications held

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

that correspond to the relevant requirements of Section 226.800(f) of this Part.

- d) Persons wishing to be included on this list may submit the information about their credentials required under subsection (b) of this Section to the State Board at any time. The State Board shall update the list as changes may warrant and shall provide the list to school districts.

Section 226.840 Qualifications of Evaluators

The following list identifies the credentials required to administer certain types of evaluations. Where no requirements are established, an evaluation may be performed by an individual who is qualified to administer it according to the technical specifications of the publisher.

REQUIRED QUALIFICATIONS

TYPE	
Academic Performance	<p>Teaching certificate/approval appropriate for the age or disability of the child, or School Service Personnel Certificate endorsed for school psychology or guidance. (See Article 21 of the School Code [105 ILCS 5/Art.21] and the State Board's rules at 23 Ill. Adm. Code 1 and 23 Ill. Adm. Code 25.)</p>
Adapted Physical Education	<p>Special Certificate endorsed for physical education with approval in adapted physical education (23 Ill. Adm. Code 25.40 and 25.43).</p>
Assistive Technology	<p>To the extent that a test is used in performing this assessment, qualification for administering the test according to the instructions provided by the test's publisher.</p>
Audiological	<p>License to practice as an Audiologist issued by the Department of Professional Regulation pursuant to the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110].</p>
Clinical Psychological	<p>License issued pursuant to the Clinical Psychologist Licensing Act [225 ILCS 15].</p>
Cultural Background Assessment	<p>School Service Personnel Certificate endorsed for school psychology, school social work, or school counseling.</p>
Hearing Screening	<p>License to practice as an Audiologist issued by the Department of Professional Regulation pursuant to the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110], Special Certificate endorsed for speech and language impairment (23 Ill. Adm. Code 25.45), or certificate of training issued by the Department of Public Health (77 Ill. Adm. Code 675).</p>
Learning Processes Evaluation	<p>School Service Personnel Certificate endorsed for school psychology or Special Certificate endorsed for learning disabilities.</p>
Medical Review	<p>School Service Personnel Certificate endorsed for school nursing (23 Ill. Adm. Code 25.240), or license to practice medicine in all of its branches.</p>
Neurological Evaluation	<p>Licensure/registration issued by the Department of Professional Regulation pursuant to the Medical Practice Act of 1987 [225 ILCS 60].</p>
Occupational Therapy Evaluation	<p>Certificate/Registration issued by the Department of Professional Regulation pursuant to the Illinois Occupational Therapy Practice Act [225 ILCS 75].</p>
Orientation/Mobility	<p>Certification for orientation/mobility instruction and evaluation (Certification for Orientation and Mobility, Orientation and Mobility Division, Association for Education and Rehabilitation of the Blind and Visually Impaired, 4600 Duke Street, #430, P.O. Box 22397, Alexandria, Virginia 22304; 1984; no later</p>

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED RULES

amendments or editions are included).

Physical Therapy Evaluation

Certificate/registration issued by the Department of Professional Regulation pursuant to the Illinois Physical Therapy Act (225 ILCS 90).

Psychiatric Evaluation

Licensure/registration issued by the Department of Professional Regulation pursuant to the Medical Practice Act of 1987.

School Psychological

School Service Personnel Certificate endorsed for school psychology.

Social Developmental Study
(Adaptive Behavior, Cultural
Background, Family History)

School Service Personnel Certificate endorsed for social work, guidance, or school psychology (23 Ill. Adm. Code 25.210, 25.220, or 25.230).

Speech and Language Assessment

Special Certificate endorsed for speech and language impairment (23 Ill. Adm. Code 25.45).

Vision Screening

Certificate of training issued by the Department of Public Health (77 Ill. Adm. Code 675).

GOVERNOR'S ETHICS COMMISSION

NOTICE OF ADOPTED RULES

1) Heading of the Part: Rules Governing Commission Meetings and Hearings

2) Code Citation: 2 Ill. Adm. Code 1610

3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1610.100	New
1610.200	New
1610.210	New
1610.220	New
1610.230	New
1610.240	New
1610.250	New
1610.260	New
1610.300	New
1610.400	New

4) Statutory Authority: Implementing and authorized by Section 55(1) of the State Gift Ban Act [5 ILCS 425/55(1)].

5) Effective Date of Rulemaking: September 1, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rules, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: January 3, 2000; 24 Ill. Reg. 3

10) Has JCAR issued a Statement of Objection to these rules? No

11) Differences between proposal and final version: Section 1610.100 - Definition of "Hearing Officer" - Added last sentence, "The hearing officer shall be an attorney licensed to practice law in Illinois".

Section 1610.200(a) - "Any meetings shall be held in Chicago or Springfield" changed to "Any in-person meetings shall be held in Chicago or Springfield".

Section 1610.210(b)(1) - added last sentence - "Length of continuances shall be determined on a case-by-case basis, not to exceed statutory limitations".

Section 1610.210(b)(2) - Added "or a hearing" after "complaint".

GOVERNOR'S ETHICS COMMISSION

NOTICE OF ADOPTED RULES

Section 1610.210(c) - Changed "Upon timely written request" to "Upon written request".

Section 1610.210(c) - Added "or hearing" after "complaint".

Section 1610.210(d) - Rewritten.

Section 1610.210(e) - Rewritten.

Section 1610.230(e) - Rewritten.

Section 1610.240 - Changed section title to "Authority of the Hearing Officer".

Section 1610.240(a) - Rewritten.

Section 1610.240(b) - Deleted.

Section 1610.260(a)(6) - Changed "may" to "shall", Changed "to make brief oral or written closing statements" to "either to make brief oral closing statements or to submit written closing statements".

Section 1610.260(b)(2) - Rewritten.

Section 1610.260(e) - Changed "an occurrence witness" to "a witness".

Several minor editing changes were made

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any rules pending on this Part? No

15) Summary and Purpose of Rulemaking: This rulemaking is designed to set the administrative procedures for the Governor's Ethics Commission.

16) Information and questions regarding the adopted rule shall be directed to:

Tracy Winter
720 Stratton Office Building
Springfield IL 62706
(217)557-5414

The full text of the adopted rules begin on the next page.

GOVERNOR'S ETHICS COMMISSION

NOTICE OF ADOPTED RULES

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE E: MISCELLANEOUS STATE AGENCIES
CHAPTER VI: GOVERNOR'S ETHICS COMMISSION

PART 1610

RULES GOVERNING COMMISSION MEETINGS AND HEARINGS

Section

1610.100 Definitions

1610.200 Meetings of the Commission

1610.200 General Procedural Rules

1610.210 Meetings in Response to a Complaint, and Hearings

1610.220 Conduct of Meetings to Determine Probable Cause

1610.230 Conduct of Meetings in Response to a Complaint

1610.240 Authority of the Hearing Officer

1610.250 Authority of the Commission Over Hearing Officer

1610.260 Procedural Rules and Record for Hearings

1610.300 Ex Parte Consultations

1610.400 Administrative Review

AUTHORITY: Implementing and authorized by Section 55(1) of the State Gift Ban Act [5 ILCS 425/55(1)].

SOURCE: Adopted at 24 Ill. Reg. 13978, effective SEP 1 2000.

Section 1610.100 Definitions

For purposes of this Part:

"Clerk" shall mean a staff member of the Commission who has various duties, including, but not limited to, receiving complaints, ensuring proper notifications are made as required by law, and maintaining the official files of the Commission.

"Chairman" shall mean the person elected Chairman of the Governor's Ethics Commission.

"Commission" shall mean the Governor's Ethics Commission created by the State Gift Ban Act [5 ILCS 425].

"Complaint" shall mean a written, signed, notarized document that alleges a violation of the State Gift Ban Act by an officer or employee of the executive branch of State government under the jurisdiction of the Governor. A complaint must be on 8 1/2 x 11 paper, signed in ink by the party filing, and filed with the Office of the Commission. A complaint must also contain the address and telephone number of the complainant or, if represented, the name, business address, and telephone number of the representative.

GOVERNOR'S ETHICS COMMISSION

NOTICE OF ADOPTED RULES

- c) Concurrence of at least four members of the Commission shall be required for any action to be taken by the Commission.

Section 1610.210 General Procedural Rules for Meetings to Determine Probable Cause, Meetings in Response to a Complaint, and Hearings

The following rules apply to all meetings to determine probable cause, meetings in response to a complaint, and hearings:

- a) Filing and Form of Papers
 - 1) Copies of all filed documents shall be served on the clerk of the Commission and on all known parties to proceedings, and notice of such service shall be given to the Commission.
 - 2) Whenever a time period commences upon receipt of service or notice and service is by mail, receipt shall be presumed to have occurred on the fourth day after mailing. If the last date for filing falls upon a weekend or legal holiday, the last date for filing is the first business day following such weekend or legal holiday. Filing may be by facsimile if done in accordance with all other rules in this Part.
- b) Continuances and Extensions
 - 1) The Commission, at its discretion, for good cause shown (e.g., inclement weather, illness, death), on timely written motion, after notice to the opposite party, may continue for a limited period the date of a scheduled meeting in response to a complaint or a hearing. Length of continuances shall be determined on a case-by-case basis, not to exceed statutory limitations.
 - 2) Motions for extensions or continuances are not timely unless asserted at least 48 hours prior to the time scheduled for a meeting in response to a complaint or a hearing, except for emergencies.
- c) Request for List of Witnesses and Documents

Upon written request made at least seven days prior to the meeting in response to a complaint or a hearing, either party must furnish to the other party:

 - 1) A list of names and home or work addresses of the witnesses the party proposes to call.
 - 2) All documents the party proposes to offer.
 - 3) All written or recorded statements of the party's witnesses, which may be used by an adverse party for the purpose of cross-examination.
 - d) Right to Inspect and Interview

Upon written motion and seven days notice, any party or his/her representative shall have the right to inspect any relevant documents in the possession of or under the control of any other party and to interview persons having knowledge of relevant facts.
 - e) Stipulations

It is the policy of the Commission to encourage stipulations of fact whenever possible. The parties to any proceeding may agree on the

GOVERNOR'S ETHICS COMMISSION

NOTICE OF ADOPTED RULES

"Complainant" shall mean that person or entity who submits a complaint to the Commission.

"Final" shall mean entered as signed by the Chairman and filed with the Commission.

"Final administrative decision" shall mean a decision subject to review by the Circuit Court under the Administrative Review Law of the Code of Civil Procedure [735 ILCS 5/Art. III] and includes only those cases in which a fine was imposed by the Commission.

"Hearing" shall mean a public hearing demanded by the respondent, conducted by the hearing officer, as described in 5 ILCS 425/60(f).

"Hearing officer" shall mean the independent person designated by the Commission to conduct hearings and make preliminary rulings and recommendations to the Commission. The hearing officer shall be an attorney licensed to practice law in Illinois.

"Meeting" shall mean a gathering of the Commission members, in person, by telephone, or by video conference, to discuss the business of the Commission in general.

"Meeting in response to a complaint" shall mean the closed meeting held on the complaint during which both parties present testimony and evidence, as described in 5 ILCS 425/60(d).

"Meeting to determine probable cause" shall mean the closed meeting held on the complaint to decide the sufficiency of a complaint and probable cause, as described in 5 ILCS 425/60(c).

"Party" shall mean the complainant or the respondent.

"Respondent" shall mean that person or entity who is alleged to have violated the State Gift Ban Act as described in a complaint.

Section 1610.200 Meetings of the Commission

- a) The Governor's Ethics Commission shall hold meetings at least annually and as called by the Chairman or any two members of the Commission. Any in-person meetings shall be held in Chicago or Springfield. Commission members shall receive written notice of a meeting at least 24 hours in advance of the meeting.
- b) Meetings and meetings to determine probable cause may be held in person, by telephone conference call, or by video conferencing if done in compliance with all applicable laws. Meetings in response to a complaint and hearings require the physical presence of all participants in the same location.

GOVERNOR'S ETHICS COMMISSION

NOTICE OF ADOPTED RULES

facts or any part thereof involved in the proceeding by stipulation. Stipulations must be filed in writing with the Commission or entered orally into the record.

- f) Burden of proof
- 1) The complainant shall have the burden of proof to establish by a preponderance of evidence that the matter asserted is more probably true than not true.
 - 2) When a party has the burden of proof and establishes the matter asserted by the required quantity of evidence, the party has made a prima facie case, and the burden of disproving the matter asserted goes to the opposing party by the same quantity of evidence.

Section 1610.220 Conduct of Meetings to Determine Probable Cause

- a) The Commission shall appoint an attorney to review any pending complaints and all supporting evidence of the allegations prior to a meeting to determine probable cause. Following this review, the attorney shall make a recommendation to the Commission on each complaint regarding its sufficiency and determination of probable cause.
- b) A meeting to determine probable cause shall be conducted by the Chairman, or his designee, and shall consist of a review of the complaint and all supporting evidence of the allegation.

Section 1610.230 Conduct of Meetings in Response to a Complaint

- a) The Chairman, or designee, shall conduct the meeting in response to a complaint. He/she shall open the meeting in response to a complaint by explaining the procedures to be followed in the meeting in response to a complaint.
- b) The Commission shall appoint an attorney to present the case against the respondent with the complainant. The same attorney may review the sufficiency of complaints (see Section 1610.220 of this Part) and present the case against the respondent. The respondent may have the aid of counsel at his/her own expense.
- c) Each party shall be given the opportunity to make a brief opening statement identifying the issues and indicating what is to be proven.
- d) The respective parties may bring witnesses, cross-examine opposing witnesses, and present documentary and demonstrative evidence. The Chairman, or designee, may also examine the witnesses.
- e) Before closing the meeting in response to a complaint, the Chairman, or designee, shall allow both parties the opportunity either to make brief oral closing statements or to submit written closing statements.

Section 1610.240 Authority of the Hearing Officer

The hearing officers appointed by the Commission shall have the authority to

GOVERNOR'S ETHICS COMMISSION

NOTICE OF ADOPTED RULES

conduct hearings including the authority to hold prehearing conferences, to administer oaths, to examine witnesses, and to make rulings on motions. He/she shall also have authority to rule on any substantive or procedural matter not covered within this Part, subject to the final review of the Commission.

Section 1610.250 Authority of the Commission Over Hearing Officer

- a) The Commission shall hold a meeting following the conclusion of the hearing and the receipt of the recommendation of the hearing officer to review and rule on the recommendation of the hearing officer.
- b) The Commission shall have the authority to affirm, reverse, modify, or set aside in whole or in part the rulings, orders, decisions, or recommendations of the hearing officer.
- c) A decision shall become final on the date such decision is entered after the concurrence of at least four members at a meeting.
- d) Motions made after the proposal for decision has been forwarded to the parties shall be ruled on by the Commission prior to the rendering of the final decision, provided the motion is filed in accordance with this Part.

Section 1610.260 Procedural Rules and Record for Hearings

a) Conduct of Hearings

- 1) The hearing officer shall open the hearing by explaining the procedure to be followed in the hearing. Upon motion of either party or at the discretion of the hearing officer, any or all witnesses may be sequestered.
- 2) Preliminary matters such as objection to charges, disputes involving discovery, stipulation of facts and documents, and scheduling of witnesses may be resolved.
- 3) The Commission shall appoint an attorney to present the case against the respondent with the complainant. The respondent may have the aid of counsel at his/her own expense.
- 4) Each party shall be given the opportunity to make a brief opening statement identifying the issues and indicating what is to be proven. Each party may call witnesses to testify on his/her own behalf. All witnesses shall testify under oath or affirmation.
- 5) The respective parties may cross-examine opposing witnesses and present documentary and demonstrative evidence. The hearing officer may also examine the witnesses.
- 6) Before closing the hearing, the hearing officer shall allow both parties the opportunity either to make brief oral closing statements or to submit written closing statements.

b) Motions

- 1) Unless made orally on the record during a hearing, all motions shall be in writing and shall briefly state the order or relief requested and the specific grounds upon which relief is sought. Motions based on a matter that does not appear on record shall be

GOVERNOR'S ETHICS COMMISSION

NOTICE OF ADOPTED RULES

supported by affidavit.

- 2) The motion shall point out specifically the defects complained of and shall ask for appropriate relief, such as: dismissal of the action, more clear definition of a specific charge, etc.

c) **Appearances of Witnesses**
The clerk is authorized to issue subpoenas for witnesses or documents that may be required by any party. Subpoena duces tecum shall specify the books, papers, and accounts or documents desired to be produced. The appearance of a party or State agency and/or employee of a party may be secured by merely serving the party with written notice designating the persons required to appear. For good cause shown, the hearing officer on motion may quash or modify any subpoena or notice.

d) **Pre-Hearing Conference**

- 1) The hearing officer may hold a pre-hearing conference. At the conference, the parties, or their representatives, shall appear as the hearing officer directs to consider the simplification of the issue, amendment to the charges, the possibility of obtaining admissions and stipulations of fact and of documents that will avoid unnecessary proof, and any other matters that may aid in the disposition of the action.

- 2) After a pre-hearing conference, the hearing officer shall provide all parties with a statement including any ruling on motions or other actions taken, any agreements made by the parties as to any of the matters considered, and the issues still to be considered at the hearing.

e) **Hostile Witnesses**

If the hearing officer determines that a witness is hostile or unwilling, the witness may be examined by the party calling him/her as if under cross-examination. The party calling a witness may, upon showing that he/she called the witness in good faith but is surprised by his/her testimony, impeach the witness by proof of prior inconsistent statements.

f) **Failure to Comply with Orders or Rules**

If a party, or any person at the instance of or in collusion with a party, unreasonably refuses or fails to comply with this Part, or with any order of the hearing officer, the hearing officer may enter an adverse finding, order, or decision as may be necessary to ensure just disposition of the matter.

g) **Evidence**

- 1) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. The rules of evidence and privilege as applied in civil cases in the circuit courts of Illinois shall be followed. However, evidence not admissible under those rules of evidence may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

- 2) Objections to evidentiary offers may be made and shall be ruled

GOVERNOR'S ETHICS COMMISSION

NOTICE OF ADOPTED RULES

upon by the hearing officer and noted in the record.

- h) **Record of Proceedings**
Whenever a hearing is held under the Act or this Part, it shall be recorded by stenographic or other means that adequately preserves the record. The Commission may order that the recording be transcribed. The Commission shall bear the costs of the stenographer. The parties or the Commission may order copies of the transcript at their own expense; however, if the matter is appealed under the Administrative Review Law, the Commission shall bear the cost of the transcript.

i) **Proposal for Decision**

The hearing officer shall prepare a proposal for decision that shall be forwarded to each Commission member and the clerk of the Commission within two business days after the conclusion of the hearing.

Section 1610.300 Ex Parte Consultations

- a) Except in the disposition of matters that they are authorized by law to entertain or dispose of on an ex parte basis, neither the hearing officer, the Commission members, nor Commission staff shall, after notice of a meeting in response to a complaint in a contested case, communicate, directly or indirectly, in connection with any issue of fact, with any person or party, or in connection with any other issue with any party or the party's representative, except upon notice and opportunity for all parties to participate.

- b) Communications regarding procedure, such as, but not limited to, format of pleadings, number of copies required, manner of service, status of proceedings, and continuances, are not considered to be ex parte communications. However, requests for continuances shall not be granted until the opposing party is notified either orally or in writing that a request is going to be made and has an opportunity to respond to that request.

Section 1610.400 Administrative Review

When the Commission renders a final administrative decision, any party affected by that decision is entitled to have the decision reviewed by the Circuit Court under the Administrative Review Law of the Code of Civil Procedure (735 ILCS 5/Art. III) by filing a complaint and causing the issuance of summons on the Commission within 35 calendar days from the date that a copy of the decision to be reviewed was served on the affected party.

DEPARTMENT OF HUMAN SERVICES
NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Child Care
- 2) Code Citation: 89 Ill. Adm. Code 50
- 3) Section Numbers:
50.410 New Section
50.420 New Section
- 4) Statutory Authority: Implementing Articles I through IX and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. I through IX and 12-13].
- 5) Effective Date of Amendments: September 1, 2000
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: April 21, 2000; 24 Ill. Reg. 6477
- 10) Has JCAR Issued a Statement of Objection to these amendments? Yes
 - A) Statement of Objection: September 1, 2000; 24 Ill. Reg. 13433
 - B) Agency Response: September 15, 2000; 24 Ill. Reg. 14088
- 11) Differences between proposal and final version: The following changes were made in the text of the proposed amendments:
 1. In Section 50.410(a), "state" was capitalized, "licensed" was changed to "license", [225 ILCS 10] was added after "1969", "background" was replaced by "CANTS" and "[325 ILCS 5]" was added after "Abused and Neglected Child Reporting Act", replacing "[325 ILCS 5/1 et seq.]"
 2. In Section 50.410(b), "background" was replaced by "CANTS".
 3. In Section 50.410(c), "background" was replaced by "a CANTS".
 4. In Section 50.410(d), "background" was replaced by "CANTS".

DEPARTMENT OF HUMAN SERVICES
NOTICE OF ADOPTED AMENDMENTS

5. In Section 50.420(a), "licensed" was changed to "license".
6. In Section 50.420(b), "cancellations" was changed to "cancellation".
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements? Yes
- 13) Will these amendments replace emergency amendments currently in effect? Yes
- 14) Are there any amendments pending on this Part? Yes
 - Section Number 50.230
 - Proposed Action Amendment
 - Illinois Register Citation 24 Ill. Reg. 9316
- 15) Summary and Purpose of Amendments: These amendments implement Child Care and Neglect Tracking System (CANTS) checks for license exempt child care providers. As a condition of eligibility to receive a State subsidy for providing child care to eligible families, all licensed exempt child care providers under the Child Care Act of 1969 [325 ILCS 20] must agree, in writing, to a CANTS check in the Central Register as defined in the Abused and Neglected Child Reporting Act [325 ILCS 5]. Providers subject to the CANTS check include:
 1. Child care centers exempt from licensing;
 2. Child care homes exempt from licensing;
 3. Relative child care in the home of the relative;
 4. Non-relative child care in the home of the child; and
 5. Relative child care in the home of the child.As the result of this rulemaking, all staff at a child care center and all persons age 13 and older at child care homes or child care in the home of a relative will be subject to a CANTS check. This rulemaking also establishes that providers and individuals who are not indicated in the Central Register must agree, in writing, to a CANTS check every two years. In addition, this rulemaking provides provisions for the payment for child care services.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Mrs. Susan Weir, Bureau Chief
Bureau of Administrative Rules and Procedures
Department of Human Services
100 South Grand Avenue East
3rd Floor, Harris Bldg.
Springfield, Illinois 62762
(217) 795-9772

DEPARTMENT OF HUMAN SERVICES
NOTICE OF ADOPTED AMENDMENTS

The full text of adopted amendments begins on the next page:

DEPARTMENT OF HUMAN SERVICES
NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER a: GENERAL PROGRAM PROVISIONS

PART 50
CHILD CARE

SUBPART A: GENERAL PROVISIONS

Section	
50.101	Incorporation by Reference
50.110	Participant Rights and Responsibilities
50.120	Notification of Available Services
50.130	Child Care Overpayments and Recoveries

SUBPART B: APPLICABILITY

Section	
50.210	Child Care
50.220	Method of Providing Child Care
50.230	Child Care Eligibility
50.235	Income Eligibility Criteria
50.240	Qualified Provider
50.250	Additional Service to Secure or Maintain Child Care

SUBPART C: PAYMENT FEES

Section	
50.310	Fees for Child Care Services
50.320	Maximum Annual Income and Parent Fee by Family Size, Income Level and Number of Children Receiving Care

SUBPART D: CHILD CARE ABUSE AND NEGLECT

Section	
50.410	Provider Eligibility
50.420	Payment for Child Care Services

AUTHORITY: Implementing Articles I through IX and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. I through IX and 12-13].

SOURCE: Emergency rules adopted at 21 Ill. Reg. 9502, effective July 1, 1997, for a maximum of 150 days; adopted at 21 Ill. Reg. 14961, effective November 10, 1997; emergency amendment at 22 Ill. Reg. 12816, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 21037, effective November 27, 1998; emergency amendment at 23 Ill. Reg. 10875, effective August 20, 1999, for a maximum of 150 days; amended at 24 Ill. Reg. 1058, effective January 10, 2000; emergency amendment at 24 Ill. Reg. 6604, effective April 5, 2000, for a

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

maximum of 150 days; amended at '24 Ill. Reg. **13987**, effective 1/1/2000.

SUBPART D: CHILD CARE ABUSE AND NEGLECT

Section 50.410 Provider Eligibility

- a) As a condition of eligibility to receive a State subsidy for providing child care services to eligible families, all license exempt child care providers under the Child Care Act of 1969 [225 ILCS 10] must agree, in writing, to a CANTS check in the Central Register as defined in the Abused and Neglected Child Reporting Act [325 ILCS 5].
- b) Providers subject to the CANTS check include:
- 1) Child care centers exempt from licensing;
 - 2) Child care homes exempt from licensing;
 - 3) Relative child care in the home of the relative;
 - 4) Non-relative child care in the home of the child; and
 - 5) Relative child care in the home of the child.
- c) All staff at a child care center and all persons age 13 and older at child care homes or child care in the home of a relative are subject to a CANTS check.
- d) Providers and individuals who are not indicated in the Central Register must agree, in writing, to a CANTS check every two years.

(Source: Added at 24 Ill. Reg. **13987**, effective 1/1/2000.)

Section 50.420 Payment for Child Care Services

- a) The Department will discontinue payments to license exempt child care providers when one or more findings against the provider are indicated in the Central Register.
- b) The Department will reimburse providers for child care services provided through the effective date of cancellation for an indicated finding. The effective date of cancellation is 10 days from the date of the letter the Department or its agent sends to the provider notifying the provider that payments will no longer be made.

(Source: Added at 24 Ill. Reg. **13987**, effective 1/1/2000.)

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Illinois Dental Practice Act
- 2) Code Citation: 68 Ill. Adm. Code 1220
- 3) Section Numbers: Adopted Action:
1220.240 Amendment
1220.245 New Section
APPENDIX B Repealed
APPENDIX C Repealed
- 4) Statutory Authority: Illinois Dental Practice Act [225 ILCS 25].
- 5) Effective Date of Amendments: August 31, 2000
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Date Notice of Proposal Published in Illinois Register: April 21, 2000, at 24 Ill. Reg. 6488.
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: A minimum age of 18 has been added before a dental assistant can qualify for expanded duty functions. Additionally, a minimum of 1000 hours of clinical chairside experience is required before an assistant may perform the expanded functions.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will these amendments replace emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: Public Act 91-594, effective January 1, 2000, changed various duties and responsibilities for dental hygienists and dental assistants. Among the changes was allowing dental hygienists to administer, as well as monitor, nitrous oxide to dental patients if properly trained. It also allowed dental assistants to assume various duties and responsibilities previously restricted to dental hygienists, including coronal polishing and the monitoring of nitrous oxide, if properly trained. These amendments implement these provisions and

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

establish the number of hours of training required. Dental assistants will be allowed to place sealants pursuant to standards set forth in Section 1220.245. Appendices B and C listed permitted procedures that could be performed by dental hygienists and dental assistants--these appendices are being repealed. A list of prohibited procedures has been added to Section 1220.240 and 1220.245, respectively.

16) Information and questions regarding this amendment shall be directed to:

Department of Professional Regulation
Attention: Jean Courtney
320 West Washington, 3rd Floor
Springfield, Illinois 62786
217/785-0813 Fax #: 217/782-7645

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1220

ILLINOIS DENTAL PRACTICE ACT

SUBPART A: DENTIST

Section	
1220.100	Application for Licensure
1220.110	Application for Examination
1220.120	Clinical Examinations
1220.130	System of Retaking the Clinical Sections of the Examination
1220.140	Minimum Standards for an Approved Curriculum in Dentistry
1220.150	Licensure (Repealed)
1220.155	Restricted Faculty Licenses
1220.156	Temporary Training License
1220.160	Restoration
1220.170	Renewal

SUBPART B: DENTAL HYGIENIST

Section	
1220.200	Application for Licensure
1220.210	Application for Examination
1220.220	Clinical Examination
1220.230	System of Grading (Repealed)
1220.231	System of Retaking the Clinical Examination
1220.240	Prescribed Permitted Duties of Dental Hygienists Auxiliaries
1220.245	Prescribed Duties of Dental Assistants
1220.250	Approved Programs of Dental Hygiene
1220.260	Restoration
1220.270	Renewal

SUBPART C: DENTAL SPECIALIST

Section	
1220.310	Applications
1220.320	Examination
1220.330	System of Grading (Repealed)
1220.335	American Board Diplomates
1220.340	Specialty Listing (Repealed)
1220.350	Restoration
1220.360	Renewal

SUBPART D: GENERAL

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

Section

- 1220.380 Definitions
 1220.400 Reportable Diseases and Conditions
 1220.405 Reporting of Adverse Occurrences
 1220.410 Endorsement
 1220.415 Fees
 1220.421 Advertising
 1220.425 Referral Services
 1220.431 Employment by Corporation (Repealed)
 1220.435 Renewals (Repealed)
 1220.440 Continuing Education
 1220.441 Granting Variances

SUBPART E: ANESTHESIA PERMITS

Section

- 1220.500 Definitions
 1220.505 Anxiolysis in the Dental Office Setting
 1220.510 Conscious Sedation in the Dental Office Setting, Parenteral
 1220.520 Deep Sedation and General Anesthesia in the Dental Office Setting
 1220.525 Renewal
 1220.530 Anesthesia Review Panel
 1220.540 Approved Programs in Anesthesiology
 1220.550 Reporting of Adverse Occurrences (Repealed)
 1220.560 Restoration of Permits

APPENDIX A

Pre-clinical Restorative Dentistry Sub-section (Repealed)

APPENDIX B

Dental Assistant Permitted Procedures (Repealed)

APPENDIX C

Dental Hygienist Permitted Procedures (Repealed)

AUTHORITY: Implementing the Illinois Dental Practice Act [225 ILCS 25] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105-15(7)].

SOURCE: Rules and Regulations for the Administration and Enforcement of the Provisions of the Illinois Dental Practice Act, effective August 16, 1967; amended at 3 Ill. Reg. 16, P. 21, effective April 21, 1979; amended at 3 Ill. Reg. 42, P. 266, effective October 3, 1979; codified at 5 Ill. Reg. 11028; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 4174, effective May 24, 1982; amended at 6 Ill. Reg. 7446, effective June 15, 1982; emergency amendment at 7 Ill. Reg. 8952, effective July 15, 1983, for a maximum of 150 days; emergency expired December 12, 1983; amended at 8 Ill. Reg. 15610, effective August 15, 1984; amended at 10 Ill. Reg. 20725, effective December 1, 1986; transferred from Chapter I, 68 Ill. Adm. Code 220 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1220 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2926; amended at 13 Ill. Reg. 4191, effective March 16, 1989; amended at 13

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

Ill. Reg. 15043, effective September 11, 1989; amended at 17 Ill. Reg. 1559, effective January 25, 1993; emergency amendment at 17 Ill. Reg. 8309, effective May 21, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 15890, effective September 21, 1993; amended at 17 Ill. Reg. 21492, effective December 1, 1993; amended at 19 Ill. Reg. 6606, effective April 28, 1995; amended at 21 Ill. Reg. 378, effective December 20, 1996; emergency amendment at 22 Ill. Reg. 2332, effective January 8, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 10574, effective June 1, 1998; amended at 22 Ill. Reg. 14880, effective July 29, 1998; amended at 23 Ill. Reg. 7294, effective June 10, 1999; amended at 24 Ill. Reg. 13992, effective Aug 31 2000.

SUBPART B: DENTAL HYGIENIST

Section 1220.240 Prescribed Permitted Duties of Dental Hygienists Auxiliaries

e) Permitted Duties of an Appropriately-Trained Dental Assistant

- 1) A licensed dentist may delegate to an appropriately-trained dental assistant those procedures for which the dentist exercises supervision and full responsibility as long as the delegated functions do not include:
 A) Those procedures that require professional judgment and skill, such as diagnosis and treatment planning and the cutting of hard or soft tissues or any intraoral procedure that will be used directly in the fabrication of an appliance.

- B) Those procedures specifically allocated to licensed dental hygienists and

- C) Those procedures forbidden by Section 17(f) of the Act.

- 2) Appendix B of this Part contains an illustrative list of those procedures that may be performed by an appropriately-trained dental assistant.

- 3) An appropriately-trained dental assistant is a person who is considered by the supervising dentist to be competent to perform acts appropriate for dental assistants either through formal education in the area or through on-the-job training.

- a) Dental hygienists may perform the operative procedure of dental hygiene, consisting of oral prophylaxis procedures.

- b) Permitted Duties of a Dental Hygienist

- b1) Dental hygienists may perform dental health education functions and may record case histories and oral conditions observed.

- 2) Scope of Duties

- c) Dental hygienists may perform all procedures that may be performed by an appropriately trained dental assistant.

- d) Dental hygienists shall not perform those procedures which constitute the practice of dentistry as described in the Illinois Dental Practice Act. Hygienists may not perform procedures that require the professional judgment and skill of a dentist. Such prohibited procedures include, but shall not be limited to, the following: such

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

as-diagnosis-and-treatment-planning-

- 1) Making denture adjustments.
- 2) Condensing or carving amalgam restorations.
- 3) Placing and finishing composite restorations.
- 4) Taking final impressions for the fabrication of prosthetic appliances, crowns, bridges, inlays, onlays or other restorative or replacement dentistry.
- 5) Permanently cementing permanent crowns or bridges.
- 6) Permanently cementing permanent crowns or bridges that have come loose.

e)34 Dental hygienists may administer and monitor nitrous oxide under the following conditions:

- 1)44 The dental hygienist functions under the supervision of the dentist who remains in the facility;
- 2)44 The dental hygienist dentist may shall administer (start the flow of) nitrous oxide to the patient and control the induction of the gas, so that the patient is at a level of analgesia not anesthesia;

3)44 The dental hygienist dentist may remove shall-be-responsible-for removing the patient from nitrous oxide when the hygiene procedures have been dental-hygienist-has completed the-hygiene procedures; and

- 4)44 The dental hygienist is responsible for obtaining proof of certification, validating completion of a 12 hour course relative to nitrous oxide analgesia and is-responsible-for submitting certification to the dentist. Such course shall have been completed no earlier than December 31, 1994. A dental hygienist who completed the 12 hour course shall complete an additional 2 hour course in nitrous oxide analgesia administration. The dental hygienist, who has not completed the 12 hour course, shall complete an approved course of 14 hours relative to the administration and monitoring of nitrous oxide analgesia and submit certification of successful completion to the dentist. Such course shall have been completed no earlier than January 1, 1998. An individual who graduated from an approved dental hygiene program after January 1, 1998 that contained nitrous oxide analgesia administration and monitoring in the curriculum shall not be required to complete the 14 hour course upon proof to the dentist of the required curriculum. Proof of nitrous oxide analgesia education shall be made available to the Department upon request. The required hours 12--hours shall include both didactic and clinical components and be given by a continuing education sponsor approved pursuant to Section 1220.440 or a dental hygiene program approved by the Department pursuant to Section 1220.250.

44 Appendix-C-of-this-Part-contains-an-illustrative-list-of-those procedures-that-may-be-performed-by-registered-dental-hygienists-licensed dentist need not be present in the facility for a dental

f)54

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

hygienist to perform the procedures set forth in this Section (except for the administration and monitoring of nitrous oxide, which must be done under the direction and supervision of a dentist as outlined in subsection (e)11) entitled-in-Appendix-C-of-this-Part on persons who reside in a long-term care facility licensed by the State of Illinois or a mental health or developmental disability facility operated by the Department of Mental Health and Developmental Disabilities hospital or other similar institution and are unable to travel to a dental office because of illness or infirmity. The dentist shall personally examine and diagnose the patient and determine which services are necessary to be performed, which shall be contained in a written order to the hygienist. Such order must be implemented within 90 days of its issuance and an updated medical history and oral inspection must be performed by the hygienist immediately prior to beginning the procedures to ensure that the patient's health has not changed in any manner to warrant a re-examination by the dentist.

g)44 All intraoral procedures performed by a dental auxiliary, except those provided for in subsections (b)44 and (f) 444547---above, must be examined by the supervising dentist prior to the dismissal of the patient from the facility that day.

(Source: Amended at 24 Ill. Reg. 13992, effective 11/6/1990)

Section 1220.245 Prescribed Duties of Dental Assistants

- a) "Dental Assistant" means an appropriately trained person who, under the supervision of a dentist, provides dental services or procedures as authorized by Section 17 of the Illinois Dental Practice Act or as prescribed by this Part. "Appropriately trained" means a person who:
 - 1) Has completed formal training as a condition for administering a specific service or procedure as required by the Illinois Dental Practice Act for this Part; and
 - 2) Is considered, for all other authorized or prescribed services or procedures, by the supervising dentist to be competent to render such service or procedure as a result of on-the-job training.
- b) Provided that a dental assistant is appropriately trained pursuant to this Section and is acting under the supervision and full responsibility of a dentist, a dental assistant may perform any dental service or procedure except the following:
 - 1) Any and all diagnosis or prescription for treatment of disease, pain, deformity, deficiency, injury or physical condition of the human teeth or jaws, or adjacent structures.
 - 2) Removal of, restoration of, or addition to the hard or soft tissues of the oral cavity. For purposes of this Section, coronal polishing and acid etching of a tooth surface are not considered removal of hard or soft tissues.
 - 3) Any and all correction of malformation of teeth or of the jaws.

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 4) Administration of anesthetics except for topical anesthetics and monitoring of nitrous oxide as specified in this Section.
- 5) Removal of calculus from teeth.
- 6) Taking of final impressions for the fabricating of prosthetic appliances, crowns, bridges, inlays, onlays, or other restorative or replacement dentistry.
- 7) The operative procedure of dental hygiene consisting of oral prophylactic procedures except for coronal polishing as specified in this Section.
- 8) Making denture adjustments.
- 9) Condensing or carving amalgam restorations.
- 10) Placing and finishing composite restorations.
- 11) Permanently cementing permanent crowns or bridges.
- 12) Permanently re-cementing permanent crowns or bridges that have come loose.
- 13) Placement of any chemotherapeutic agent for the management of periodontal disease.
- 14) Applying cavity bases.
- 15) Cementing bands and/or bonding brackets.
- 16) Performing supragingival or subgingival scaling.
- 17) Performing pulp vitality tests.
- c) A dental assistant, who is at least 18 years of age and has 1000 hours of clinical dental assisting experience, may perform the following services and procedures, but only under the following terms and conditions:
 - 1) Monitoring nitrous oxide, provided:
 - A) The dental assistant has completed an approved course of 12 hours relative to nitrous oxide analgesia and has submitted certification to the dentist of valid completion of such course. Such course shall have been completed no earlier than January 1, 1998. Proof shall be made available to the Department upon request. The required hours shall include both didactic and clinical components and have been designed by an educational institution such as a dental school, dental hygiene or dental association program or by an approved CE sponsor and include areas of anatomy, physiology, pharmacology and dental emergencies. Courses being offered by CE sponsors approved pursuant to Section 1220.440(b)(2)(N) must be preapproved by the Department prior to their initial offering and must meet the requirements set forth in this subsection (c)(1). In addition to the required hours, the assistant must be currently certified in CPR.
 - B) The dental assistant is functioning under the supervision of the dentist who remains in the facility.
 - C) Only a dentist or dental hygienist qualified pursuant to Section 1220.240(e) shall administer (start the flow of) nitrous oxide to the patient and control the induction of

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- the gas so that the patient is at a level of analgesia, not anesthesia.
- D) Only a dentist or dental hygienist qualified pursuant to Section 1220.240(e) shall remove the patient from nitrous oxide when the dentist or dental hygienist has completed the procedures on the patient.
 - 2) Coronal polishing, provided:
 - A) The dental assistant has completed an approved course of 6 hours relative to coronal polishing and has submitted certification of successful completion to the dentist. Such course shall have been completed no earlier than January 1, 1998. Proof shall be made available to the Department upon request. The required hours shall include a minimum of 4 hours of didactic study in areas of anatomy, physiology, pharmacology and dental emergencies and 2 hours of clinical instruction and have been provided by an educational institution such as a dental school, dental hygiene or dental assistant program or by an approved CE sponsor. Courses being offered by CE sponsors approved pursuant to Section 1220.440(b)(2)(N) must be preapproved by the Department prior to their initial offering and must meet the requirements set forth in this subsection (c)(2). The assistant must pass an examination in the didactic portion of the course and the clinical portion must contain experience on human subjects.
 - B) Coronal polishing shall be limited to polishing the clinical crown of the tooth and existing restoration, supragingivally.
 - C) Coronal polishing shall be limited to the use of slow speed rotary instruments using a rubber cup and/or brush polishing method. The use of air polish by dental assistants is not permitted; and
 - D) A dentist shall be limited to supervising four dental assistants at any one time for the task of coronal polishing.
 - 3) Pit and fissure sealant application, provided:
 - A) The dental assistant has completed a course of at least 2 hours of didactic study and 2 hours of clinical instruction. Prior to being permitted to place sealants in accord with this Section, the supervising dentist has personally observed the dental assistant successful place 6 pit and fissure sealants.
 - C) The supervising dentist must document that the training has been completed; and
 - D) The supervising dentist is responsible for examining the patient prior to and following the placement of sealants by a dental assistant.
 - d) All intraoral procedures performed by a dental assistant must be

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

examined by the supervising dentist prior to the dismissal of the patient from the facility that day.

(Source: Added at 24 Ill. Reg. 13992, effective 3/11/2000)

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

Section 1220. APPENDIX B Dental Assistant Permitted Procedures (Repealed)

The following procedures may be performed by a trained dental assistant if the licensed dentist responsible for the patients in that practice:

- a) is in the same room during the performance of the procedures:
- i) Provide chairside assistance to the dentist who is performing dental operations and act in response to the dentist's specific directions, such as retracting a patient's cheek, tongue or other oral tissue.
- 2) List on a chart the oral condition as dictated by the dentist who is performing a dental examination and record primary medical and dental histories.
- b) is in the dental facility during the performance of the procedures:
- i) Provide chairside assistance to a dental hygienist perform certain tasks consisting of traditional chairside assisting such as retraction of patient's tongue, cheek or other oral tissue.
- 2) Remove oral debris by watery compressed air and vacuum devices.
- 3) Mix dental materials to be used by the dentist.
- 4) Receive removable prostheses for cleaning and repair.
- 5) Seat patients; place protective garments; lubricate lips and otherwise prepare patients for the dentist.
- 6) Pre-select and contouring of temporary crown forms extrorally for placement of filling material and seating of temporary crown by the dentist.
- 7) Place and remove rubber dams and clamps.
- 8) Remove excess cement from clinical crown of tooth.
- 9) Place and remove periodontal packs and remove sutures excluding wire sutures.
- 10) Expose and process roentgenograms of teeth; the alveolar process or any of the bony parts necessarily involved.
- 11) Place and remove metal celluloid or plastic matrices and wedges between teeth for placement of filling material by the dentist.
- 12) Instruct and demonstrate placement of intraoral appliances that the patient will have to do by himself or herself out of the office.
- 13) Take impressions of the mouth for the purpose of making diagnostic casts or model cases and opposing models.
- 14) Put impressions other than those used for diagnostic purposes; section of impression trays and holding of impressions after they have been seated by dentist and remove such impression at the direction of the dentist.
- 15) Instruct patients in the use of all oral hygiene products; intraoral elasticity or the care and use of orthodontic appliances including intraoral and extraoral demonstration.
- 16) Remove ligature ties cut and tuck ligatures; remove extension devices and any loose or broken bands or arch wires.
- 17) Fixation (ligation) pinning or fastening of any arch wire after fitting and placement of that arch wire by a licensed

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

dentist:

- 18) Remove an arch-wire
- 19) Take patient's vital signs, i.e., blood pressure and pulse, etc.
- 20) Apply topical anesthetics
- 21) Apply microidentification dots
- 22) Place and remove retraction cord
- 23) Instruct patient in use of bleaching agents
- 24) Fabricate and remove temporary crowns without the intraoral use of rotary instruments
- 25) Remove excess supragingival cement from restorations and appliances that have been placed by the dentist
- 26) Use acid-etch for the purpose of preparing teeth for pit and fissure sealants and preparation for placement of orthodontic brackets
- 27) Place amalgam and composite material into cavity preps for condensation by the dentist
- 28) Place and remove orthodontic separators for the purpose of timely placement of orthodontic appliances
- 29) Resection or prescribed trial fitting of orthodontic brackets, bands, stainless steel crowns and doctor prescribed archwires intraorally
- 30) Take intraoral photographs and imaging
- c) Directs the performance of procedures which do not require direct contact with patients; the dentist need not be physically present in the office during the performance of these procedures
- d) Supervision, as defined in Section 4 of the Act, means the supervision of a dental assistant requiring that a dentist authorize the procedure, remain in the dental facility while the procedure is performed, and approve the work performed by the dental assistant before dismissal of the patient; but does not mean that the dentist must be present at all times in the treatment room:

(Source: Repealed at 24 Ill. Reg. 1302, effective 1/1/2011)

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

Section 1220 APPENDIX C Dental Hygienist Permitted Procedures (Repealed)

- a) In addition to those activities specified in Section 18 of the Act the following procedures may be performed by a registered dental hygienist:
 - 1) Polish restorations without changing the anatomy, contour or occlusion of the tooth
 - 2) Perform root planing and soft tissue curettage
 - 3) Place temporary restorations following examination and instruction by the dentist
 - 4) Apply topical anesthetics and topical medicaments
 - 5) Record existing conditions through the use of radiographs
 - 6) Perform intraoral dental laboratory tests including but not limited to oral cytology smears, pulp vitality tests and caries tests
 - 7) Apply pit and fissure sealants to teeth as prescribed by the dentist
 - 8) Do intraoral irrigation and sulcular irrigation
 - 9) Remove overhanging margins without the use of rotary instruments
 - 10) Utilize chemotherapeutic modalities subgingivally
 - b) Except under the conditions specified in Section 18(b) of the Act a dental hygienist may be employed or engaged only under the supervision of a licensed dentist
 - c) Supervision, as defined in Section 4 of the Act, means the supervision of a dental hygienist requiring that a dentist authorize the procedure, remain in the dental facility while the procedure is performed, and approve the work performed by the dental hygienist before dismissal of the patient; but does not mean that the dentist must be present at all times in the treatment room:

(Source: Repealed at 24 Ill. Reg. 1302, effective 1/1/2011)

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Illinois Public Accounting Act

2) Code Citation: 68 Ill. Adm. Code 1420

3) Section Numbers: Adopted Action:
1420.40 Amendment
1420.60 Amendment
1420.70 Amendment
1420.80 Amendment

4) Statutory Authority: Illinois Public Accounting Act [225 ILCS 450]

5) Effective Date of Amendments: August 31, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Date Notice of Proposal Published in Illinois Register: April 7, 2000, at 24 Ill. Reg. 5874.

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: CE courses sponsored or approved by other states or other state CPA societies or courses offered outside of Illinois by sponsors registered with the National Association of State Boards of Accountancy (NASBA) are considered approved.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter? Yes

13) Will these amendments replace emergency amendments currently in effect?
No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: Section 1420.70 is amended to provide a mechanism for approving continuing education earned outside Illinois. Section 1420.60 is amended to clarify that individuals restoring licenses after military service are exempt from proof of CE and subject to the current renewal fee, while Section 1420.40 is amended to remove the fee for placing a license on inactive status. Technical changes are also made.

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

16) Information and questions regarding these adopted amendments shall be directed to:

Department of Professional Regulation
Attention: Jean Courtney
320 West Washington, 3rd Floor
Springfield, Illinois 62786
217/785-0813 Fax: 217/782-7645

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1420
ILLINOIS PUBLIC ACCOUNTING ACT

Section	
1420.10	Experience
1420.20	Application for Licensure-Individual
1420.30	Application for Licensure-Firm
1420.35	Temporary Practice
1420.40	Fees for the Administration of the Act
1420.50	Endorsement
1420.60	Restoration
1420.70	Continuing Professional Education
1420.80	Renewals
1420.90	Annual Report of the Committee
1420.100	Conduct of Hearings (Repealed)
1420.110	Granting Variances

AUTHORITY: Implementing the Illinois Public Accounting Act [225 ILCS 450] and authorized by Section 60(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/60(7)].

SOURCE: Rules and Regulations for the Administration and Enforcement of the Provisions of the Illinois Public Accounting Act, effective June 30, 1975; codified at 5 Ill. Reg. 11058; amended at 5 Ill. Reg. 14171, effective December 3, 1981; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7748, effective June 15, 1982; emergency amendment at 7 Ill. Reg. 14546, effective October 13, 1983, for a maximum of 150 days; amended at 8 Ill. Reg. 6179, effective April 23, 1984; amended at 9 Ill. Reg. 5708, effective April 15, 1985; amended at 9 Ill. Reg. 8738, effective May 28, 1985; amended at 9 Ill. Reg. 13360, effective August 21, 1985; amended at 10 Ill. Reg. 20739, effective December 1, 1986; amended at 11 Ill. Reg. 18276, effective October 27, 1987; transferred from Chapter I, 68 Ill. Adm. Code 420 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1420 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2944; amended at 19 Ill. Reg. 16258, effective November 28, 1995; amended at 21 Ill. Reg. 15255, effective November 17, 1997; amended at 24 Ill. Reg. 14005, effective 11/1/2001.

Section 1420.40 Fees For the Administration of the Act

The following fees shall be paid to the Department for the functions performed by the Department under this Act and shall be non-refundable:

- a) The fee for application and for a certificate of licensure as a public

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

accountant is \$75;

- b) The fee for renewal of a license as a public accountant is \$20 per year;
 c) The fee for a license as a firm engaged in public accounting is \$75;
 d) The fee for renewal of a license as a firm engaged in public accounting is \$40 per year;
 e) The fee for a license as a public accountant by endorsement from another jurisdiction is \$75;
 f) ~~The fee for placing a license on inactive status is \$15;~~
 g) The fee for restoration of a license from inactive status is the current renewal fee.
 gh) The fee for restoration of a license other than from inactive status is \$50 plus all lapsed renewal fees, not to exceed \$260;
 h) The fee for certification of a licensee's record is \$20;
 i) The fee for a duplicate license or replacement certificate is \$20;
 j) The fee for a wall certificate is the cost of production;
 k) The fee for change of name or address on a licensee's record, other than during renewal, is \$20;
 l) The fee for a roster of licensed public accountants shall be the actual cost of producing such a roster. Actual roster cost shall equal (total number of licensees in list requested) times the multiplier (cost of paper), plus fixed costs (such as personnel, handling and forms);
 m) The fee for application to be a sponsor of approved continuing education courses shall be \$150, except the fee for applicants who submit proof of prior unrevoked registration with the Continuing Professional Education (CPE) Registry of the National Association of State Boards of Accountancy shall be \$75. Publicly supported colleges, universities and governmental agencies located in Illinois are exempt from payment of fees for continuing education sponsor registration and renewal;
 n) The renewal fee for sponsors of CPE shall be \$150, except the renewal fee for registered sponsors who are also registered with the National Association of State Boards of Accountancy shall be \$75;
 o) Upon request, one copy of the Act and Rules will be provided free of charge. Additional copies may be obtained for one dollar per copy.

(Source: Amended at 24 Ill. Reg. 14005, effective 11/1/2001.)

Section 1420.60 Restoration

- a) A person seeking restoration of a license prior to September 30, 1997, after it has expired or been placed on inactive status for 5 years or more, shall file an application with the Department together with the required fee specified in Section 1420.40 of this Part and proof of 80 hours of continuing education as defined in Section 1420.70 of this Part in the 2 years immediately preceding application for restoration.

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

A person seeking restoration of a license on or after September 30, 1997, after it has expired or been placed on inactive status for 5 years or more shall file an application with the Department together with the required fee specified in Section 1420.40 of this Part and proof of 120 hours of continuing education as defined in Section 1420.70 of this Part in the 3 years immediately preceding application for restoration. The applicant shall also submit one of the following either:

- 1) One verification of employment completed by an employer, co-worker or client; or
 - 2) Proof of active practice in another jurisdiction. Such evidence shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the licensee was authorized to practice during the term of said active practice; or
 - 3) Certification of licensure from the licensing authority, stating the dates of licensure and whether the records of the licensing authority contain any record of disciplinary action taken or pending; or
 - 4) One verification of employment attesting to the applicant's practice of public accounting in a jurisdiction where licensure is not required; or
 - 5) An affidavit attesting to military service as provided in Section 17.1 of the Act; or
 - 6) Other proof acceptable to the Department of the applicant's fitness to have the license restored.
- b) A person seeking restoration of a license that has expired or been placed on inactive status for less than 5 years shall have the license restored upon payment of the required fee as specified in Section 1420.40 and proof of 40 hours each year of part thereof since the license has been expired or placed on inactive status, but in no event more than 120 hours of continuing education as defined in Section 1420.70 of this Part. The CPE hours must have been obtained within the 3 years immediately preceding application for restoration. However, any licensee whose license expired while in military service as provided in Section 17.1 of the Act shall be excused from the payment of any lapsed renewal fees if application for restoration is made within 2 years of termination of such service.
- c) Any person seeking restoration of a license within 2 years after discharge from military service pursuant to Section 17.1 of the Act will be required to pay only the current renewal fee and will not be required to submit proof of meeting the continuing education requirements.

dit When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Department because of lack of information, discrepancies or conflicts in information given, or a need for clarification, the licensee seeking restoration of a license will be requested to:

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- 1) provide such information as may be necessary; and/or
- 2) appear for an interview before the Committee to explain such relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information.

(Source: Amended at 24 Ill. Reg. 14005, effective 4/16/97)

Section 1420.70 Continuing Professional Education

- a) Approved continuing professional education course or program (CPE course), as used in this Part, shall mean a course or program that complies with subsection (d) of this Section. In addition, courses sponsored or approved by other states or other state CPA societies or courses offered outside of Illinois by sponsors registered with the National Association of State Boards of Accountancy (NASBA) shall be considered approved.

- b) Recognized educational or professional sponsor, as used in this Part, shall mean:

- 1) The American Institute of Certified Public Accountants (AICPA);
- 2) The Illinois CPA Society/Foundation (ICPAS/F); or
- 3) A university or college approved by its governing board in the State of Illinois, or equivalent public authority governing board if in another jurisdiction, to award accounting degrees.

- c) Sponsor, as used in this Part, shall mean a person, firm, association, corporation or other group responsible for coordination and presentation of an approved CPE course or program.

- d) An approved CPE course or program is an organized program of formal learning that contributes directly to a certified public accountant's knowledge, ability or competence to perform his/her duties as a public accountant. Those programs and courses will qualify if they meet the following minimum requirements:

- 1) The course or program shall include as its subject matter one or more of the following:
 - A) Accounting and auditing
 - B) Taxation
 - C) Management services
 - D) Computer sciences
 - E) Mathematics, statistics, probability, and quantitative applications to organization
 - F) Economics
 - G) Finance
 - H) Business, securities and administrative law
 - I) Business management and employee benefits
 - J) Professional ethics for certified public accountants
 - K) Auditing public or private sector specialized industries
 - L) Administrative practice; e.g., engagement letters, fee structure and personnel management

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- M) Effective presentation techniques
 N) Professional Writing
 O) Decision Making
 P) Practice development
- 2) All courses and programs shall be developed and presented by persons with education and/or experience in the subject matter of the program to ensure compliance with the standards stated herein.
- 3) All programs must include some mechanism whereby the participants evaluate the over-all quality of the program.
- 4) All courses and programs shall specify the course objectives, level of knowledge necessary for, and prerequisites to enrollment, if any, course content, any necessary advance preparation, teaching methods to be used, and the number of CPE hours that will be earned.
- 5) An interactive self-study course or program is a program that uses interactive learning methodologies that simulate the classroom learning process by employing computer software, other technology or administrative systems that provide significant ongoing, interactive feedback to the learner regarding his or her learning process. For reporting periods ending on or after September 1, 1997, interactive self-study programs shall qualify for full credit, except as limited by the provisions of subsection (e)(4).
- 6) The sponsor(s) of all courses and programs will provide each participant with a certificate or other proof of attendance, which must include the name and address of the sponsor, the name and address of the participant, the title of the course, the number of hours actually attended in each topic, and the date the course or program was given. The sponsor(s) shall also provide each participant with an outline of the course subject matter. If the sponsor is a public accounting firm licensed under the Act, and the course is given in-firm, the sponsor will not be required to provide certificates of attendance to the employees of the firm attending the course.
- e) Credit Hours--Each approved CPE course or program "hour" shall include, as a minimum, 50 minutes of actual class time, exclusive of time devoted by participants to pre-class or post-class preparation or study and shall equal one CPE course credit hour. Courses that are part of the curriculum of a university, college or other educational institution shall be awarded CPE course credit at the rate of 15 credit hours for each semester hour, or 10 credit hours for each quarter hour of school credit awarded.
- 1) A licensee who serves as an instructor, speaker or discussion leader of an approved course will be allowed CPE course credit for actual presentation time, plus actual preparation time of up to 2 hours for each hour of presentation. Preparation time shall not be allowed for repetitious presentations of the same course,

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- and will only be allowed for additional study or research. In no case shall credit for actual time of presentation and preparation be given for more than 60 hours during any renewal period.
- 2) CPE course credit will be allowed for actual authorship of published articles and books, provided the subject matter of such article or book complies with this Section. CPE course credit shall be allowed for actual time spent in writing or researching, but in no case shall credit for authorship of published articles or books be given for more than 30 hours during any renewal period.
- 3) A correspondence or individual study course shall qualify if it meets all other requirements of these rules, it indicates average completion time on the course material, and it provides some mechanism or process by which to provide evidence of satisfactory completion by the licensee beyond certification by the licensee. Credit hours for a correspondence or individual study course, other than an interactive self-study course, shall be allowed on the basis of one-half of the average completion time determined by the sponsor. In no case shall credit for correspondence or individual study courses, other than an interactive self-study course, be given for more than 60 hours during any renewal period.
- 4) In addition to the limitations stated in subsection (e)(3), not more than 80 hours during any renewal period may consist of a combination of interactive self-study and correspondence or individual study courses.
- 5) CPE course credit will be allowed for programs or courses taken toward the satisfaction of continuing education provisions in other States.
- f) Recognized educational or professional sponsors, as specified in subsection (b) above, shall be approved upon filing a sponsor application form with the Department and payment of the required fee set forth in Section 1420.40 of this Part. Such filing shall not prevent the Department from requiring additional information, to ensure full and continued compliance with the statute and this Part. The Department will require the added information when it has reason to believe that there is not full and continued compliance with the statute and this Part and the additional information is necessary to ensure compliance.
- g) All other sponsors shall be approved upon application to the Department, payment of the required fee set forth in Section 1420.40 of this Part and upon providing the Department the following additional certification:
- 1) That all courses and programs offered by such sponsor for CPE course credit will comply with this Section;
- 2) That the sponsor will be responsible for verifying attendance at each course or program and will maintain such records for not less than five years; and

DEPARTMENT OF PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

- g) A renewal applicant who fails to include evidence of completion of the requisite number of CPE course hours shall be referred to the Committee for recommendation for further action by the Department.
- h) No carry over of continuing education hours is allowed from one prerenewal period to another.

(Source: Amended at 24 Ill. Reg. **14005**, effective

March 1, 2000.)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Children's Respite Care Center Demonstration Program Code
- 2) Code Citation: 77 Ill. Adm. Code 260
- 3) Section Numbers: 260.1750
Adopted Action: New Section
- 4) Statutory Authority: Alternative Health Care Delivery Act [210 ILCS 3]
- 5) Effective date of Amendments: August 31, 2000
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain any incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice(s) of Proposal was Published in Illinois Register: March 24, 2000 - 24 Ill. Reg. 4795
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Difference between proposal and final version: The following changes were made in response to comments received during the first notice or public comment period:
1. A blank line and period were added in the Source Note.
 2. In Section 260.1750(a)(3), a space was added between "State" and "(27)".
 3. In Section 260.1750(b), a space was added between "to" and "(27)".
 4. In Section 260.1750(f), "Beginning January 1, 1996, when" was deleted and "When" was inserted.
 5. In Section 260.1750(i)(2), "there port" was changed to "the report".
 6. Subsection "(t)" was deleted; subsection "(u)" was relettered to "(t)"; "(v)" was relettered to "(u)" was relettered to "(t)"; "(v)" was relettered to "(u)"; "(w)" was relettered to "(v)".
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were requested by JCAR.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 13) Will this amendment replace an emergency amendment currently in effect? No
- 14) Are there any other amendments pending on this Part? No

15) Summary and purpose of the Amendment: Public Act 91-598 (effective January 1, 2000) amended the Health Care Worker Background Check Act (225 ILCS 46) to include "locations licensed under the Alternative Health Care Delivery Act" in the definition of "health care employer." The Health Care Worker Background Check Act requires non-licensed direct care workers to have an Illinois State Police criminal history records check as a condition of employment by a health care employer.

A new Section implementing health care worker background check requirements is being added to the rules. Procedures for initiating background checks are set forth. The amendments list crimes for which a conviction will disqualify an individual from employment. Procedures for obtaining a waiver from the Department, which will allow the individual to work, are included. Guidelines for determining which employees provide "direct care" are included. Notification and record-keeping procedures are specified. Exceptions to the background check requirements are stated. In addition, the amendments include provisions governing individuals who have convictions in other states; individuals who contest the results of the non-fingerprint-based records check; and employers who have actual knowledge of an employee's conviction subsequent to completion of the non-fingerprint check.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Paul Thompson, Division of Legal Services
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
217/782-2043
rules@idph.state.il.us

The full text of the adopted Amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER b: HOSPITALS AND AMBULATORY CARE FACILITIES

PART 260

CHILDREN'S RESPITE CARE CENTER DEMONSTRATION PROGRAM CODE

Section	
260.1000	Definitions
260.1050	Incorporated and Referenced Materials
260.1100	Demonstration Program Elements
260.1200	Application for and Issuance of a License to Operate a Children's Respite Care Center Model
260.1300	Obligations and Privileges of Children's Respite Care Center Models
260.1400	Investigations and Investigations
260.1500	Notice of Violation and Plan of Correction
260.1600	Adverse Licensure Action
260.1700	Policies and Procedures
260.1750	Health Care Worker Background Check
260.1800	Admission Practices
260.1900	Child's Rights
260.2000	Child Care Services
260.2100	Medication Administration
260.2200	Personnel
260.2300	Food Service
260.2400	Physical Plant
260.2500	Quality Assessment and Improvement

AUTHORITY: Implementing and authorized by the Alternative Health Care Delivery Act (210 ILCS 3).

SOURCE: Adopted at 22 Ill. Reg. 3899, effective February 20, 1998; amended at 24 Ill. Reg. ~~14016~~, effective 11/1/2000.

Section 260.1750 Health Care Worker Background Check

- a) The facility shall not knowingly hire any individual in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit one or more of the following offenses (Section 25(a) of the Health Care Worker Background Check Act [225 ILCS 46/25]):
- 1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.2 and 8-1.2.1 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2] [formerly Ill. Rev. Stat. 1991, ch. 38, pars. 8-1.1 and 8-1.2]);
 - 2) Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-3, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3 of the Criminal Code of 1961 [720 ILCS 5/9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3]);

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 9-2-1, 9-3, 9-3.1, 9-3.1.1, 9-3.2 and 9-3.3.} (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3.1.} (Rev. Stat. 1985, ch. 38, par. 9-1.1.} Ill. Rev. Stat. 1961, ch. 38, pars. 3, 236, 358, 360, 361, 362, 363, 364, 364f, 365, 370, 373, 373a, 417, and 474.1.1.}
- 3) Kidnaping or child abduction (Sections 10-1, 10-2, 10-5 and 10-7 of the Criminal Code of 1961 [720 ICS 5/10-1, 10-2, 10-5, and 10-7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-1, 10-2, 10-5, and 10-7.1.} Ill. Rev. Stat. 1985, ch. 38, par. 10-6; Ill. Rev. Stat. 1961, ch. 38, pars. 384 to 386.1.1.}
- 4) Unlawful restraint or forcible detention (Sections 10-3, 10-3.1, and 10-4 of the Criminal Code of 1961 [720 ICS 5/10-3, 10-3.1, and 10-4] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-3, 10-3.1, and 10-4; Ill. Rev. Stat. 1961, ch. 38, pars. 252, 252.1, and 252.4.1.1.}
- 5) Indecent solicitation of a child, sexual exploitation of a child, exploitation of a child, child pornography (Sections 11-6, 11-9.1, 11-19.2, and 11-20.1 of the Criminal Code of 1961 [720 ICS 5/11-6, 11-9.1, 11-19.2, and 11-20.1] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 11-6, 11-19.2, and 11-20.1; Ill. Rev. Stat. 1961, ch. 38, pars. 103 and 104.1.1.}
- 6) Assault, battery, heinous battery, tampering with food, drugs or cosmetics, or infliction of great bodily harm (Sections 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7 of the Criminal Code of 1961 [720 ICS 5/12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7.1.} Ill. Rev. Stat. 1961, ch. 38, pars. 55, 56, and 56a to 60b.1.1.}
- 7) Aggravated stalking (Section 12-7.4 of the Criminal Code of 1961 [720 ICS 5/12-7.4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-7.4.1.1.}
- 8) Home invasion (Section 12-1.1 of the Criminal Code of 1961 [720 ICS 5/12-1.1] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-1.1.1.1.}
- 9) Sexual assault or sexual abuse (Sections 12-13, 12-14, 12-14.1, 12-15, and 12-16 of the Criminal Code of 1961 [720 ICS 5/12-13, 12-14, 12-14.1, 12-15, and 12-16] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 11-1, 11-2, 11-3, 11-4, 11-5, 12-13, 12-14, 12-15, and 12-16; Ill. Rev. Stat. 1985, ch. 38, pars. 11-1, 11-4, and 11-4.1; Ill. Rev. Stat. 1961, ch. 38, pars. 109, 141, 142, 490, and 491.1.1.}
- 10) Abuse or gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ICS 5/12-19] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-19.1.1.}

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 11) Criminal neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ICS 5/12-21] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-21.1.1.}
- 12) Endangering the life or health of a child (Section 12-21.6 of the Criminal Code of 1961 [720 ICS 5/12-21.6] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354; Ill. Rev. Stat. 1961, ch. 38, par. 95.1.1.}
- 13) Ritual mutilation, ritualized abuse of a child (Sections 12-32 and 12-33 of the Criminal Code of 1961 [720 ICS 5/12-32 and 12-33.1] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-32 and 12-33.1.1.}
- 14) Theft, retail theft (Sections 16-1 and 16A-3 of the Criminal Code of 1961 [720 ICS 5/16-1 and 16A-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 16-1 and 16A-3; Ill. Rev. Stat. 1961, ch. 38, pars. 62, 207 to 218, 240 to 244, 246, 253, 254.1, 258, 262, 262a, 273, 290, 291, 301a, 394, 387 to 388b, 389, 393 to 400, 404a to 404c, 438, 492 to 496.1.1.}
- 15) Financial exploitation of an elderly or disabled person (Section 16-3.3 of the Criminal Code of 1961 [720 ICS 5/16-3.3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 16-3.3.1.1.}
- 16) Forgery (Section 17-3 of the Criminal Code of 1961 [720 ICS 5/17-3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 17-3; Ill. Rev. Stat. 1961, ch. 38, pars. 151 and 277 to 286.1.1.}
- 17) Robbery, armed robbery (Sections 18-1 and 18-2 of the Criminal Code of 1961 [720 ICS 5/18-1 and 18-2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 18-1 and 18-2.1.1.}
- 18) Vehicular hijacking, aggravated vehicular hijacking, aggravated robbery (Sections 18-3, 18-4, and 18-5 of the Criminal Code of 1961 [720 ICS 5/18-3, 18-4, and 18-5.1.1.}
- 19) Burglary, residential burglary (Sections 19-1 and 19-3 of the Criminal Code of 1961 [720 ICS 5/19-1 and 19-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 19-1 and 19-3; Ill. Rev. Stat. 1961, ch. 38, pars. 84 to 86, 88, and 501.1.1.}
- 20) Criminal trespass to a residence (Section 19-4 of the Criminal Code of 1961 [720 ICS 5/19-4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 19-4.1.1.}
- 21) Arson (Sections 20-1 and 20-1.1 of the Criminal Code of 1961 [720 ICS 5/20-1 and 20-1.1] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 20-1 and 20-1.1.1.} Ill. Rev. Stat. 1961, ch. 38, pars. 48 to 53 and 336 to 338.1.1.1.}
- 22) Unlawful use of weapons, aggravated discharge of a firearm, or reckless discharge of a firearm (Sections 24-1, 24-1.2, and 24-1.5 of the Criminal Code of 1961 [720 ICS 5/24-1, 24-1.2, and 24-1.5] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 24-1 and 24-1.2; Ill. Rev. Stat. 1961, ch. 38, pars. 152, 152a, 155, 155a to 155bb, 414a to 414c, 414e, and 414g.1.1.}
- 23) Armed violence - elements of the offense (Section 33A-2 of the Criminal Code of 1961 [720 ICS 5/33A-2] (formerly Ill. Rev.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- Stat. 1991, ch. 38, par. 33A-2))
- 24) Those provided in Section 4 of the Wrongs to Children Act (Section 4 of the Wrongs to Children Act [720 ICS 150/4] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354))
- 25) Cruelty to children (Section 53 of the Criminal Jurisprudence Act [720 ICS 115/53] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2368)))
- 26) Manufacture, delivery or trafficking of cannabis, delivery of cannabis on school grounds, or delivery to person under 18, violation by person under 18 (Sections 5, 5.1, 5.2, 7, and 9 of the Cannabis Control Act [720 ICS 550/5, 5.1, 5.2, 7, and 9] (formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 705, 705.1, 705.2, 707, and 709))) or
- 27) Manufacture, delivery or trafficking of controlled substances (Sections 401, 401.1, 404, 405, 405.1, 407 and 407.1 of the Illinois Controlled Substance Act [720 ICS 570/401, 401.1, 404, 405, 405.1, 407, 407.1] (formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 1401, 1401.1, 1404, 1405, 1405.1, 1407, and 1407.1)).
- b) The facility shall not knowingly employ or retain any individual in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) of this Section unless the applicant, employee or employer obtains a waiver pursuant to subsections (m) and (o) of this Section. (Section 25(a) of the Health Care Worker Background Check Act)
- c) A facility shall not hire, employ, or retain any individual in a position with duties involving direct care of residents if the facility becomes aware that the individual has been convicted in another state of committing or attempting to commit an offense that has the same or similar elements as an offense listed in subsections (a)(1) to (27) of this Section, as verified by court records, records from a State agency, or an FBI criminal history record check. This shall not be construed to mean that a facility has an obligation to conduct a criminal history records check in other states in which an employee has resided. (Section 25(b) of the Act)
- d) For the purpose of this Section:
- 1) "Applicant" means an individual seeking employment with a facility who has received a bona fide conditional offer of employment.
 - 2) "Conditional offer of employment" means a bona fide offer of employment by a facility to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses listed in subsections (a)(1) to (27) of this Section.
 - 3) "Direct care" means the provision of nursing care or assistance with feeding, dressing, movement, bathing, or other personal needs.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 4) "Initiate" means the obtaining of the authorization for a record check from a student, applicant, or employee. (Section 15 of the Health Care Worker Background Check Act)
- e) For purposes of the Health Care Worker Background Check Act, the facility shall establish a policy defining which employees provide direct care. In making this determination the facility shall consider the following:
- 1) The employee's assigned job responsibilities as set forth in the employee's job description;
 - 2) Whether the employee is required to or has the opportunity to be alone with residents, with the exception of infrequent or unusual occasions; and
 - 3) Whether the employee's regular responsibilities include physical contact with residents, for example to provide therapy or to draw blood.
- f) When the facility makes a conditional offer of employment to an applicant who is not exempt under subsection (e) of this Section, for a position with duties that involve direct care for residents, the employer shall inquire of the Nurse Aide Registry as to the status of the applicant's Uniform Conviction Information Act (UCIA) criminal history record check. If a UCIA criminal history record check has not been conducted within the last 12 months, the facility must initiate or have initiated on its behalf a UCIA criminal history record check for that applicant. (Section 30(c) of the Health Care Worker Background Check Act)
- g) The facility shall transmit all necessary information and fees to the Illinois State Police within 10 working days after receipt of the authorization. (Section 15 of the Health Care Worker Background Check Act)
- h) The facility may accept an authentic UCIA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsection (f) of this Section.
- i) The request for a UCIA criminal history record check shall be made as prescribed by the Department of State Police. The applicant or employee must be notified of the following whenever a non-fingerprint-based UCIA criminal history record check is made:
- 1) That the facility shall request or have requested on its behalf a non-fingerprint-based UCIA criminal history record check pursuant to the Health Care Worker Background Check Act.
 - 2) That the applicant or employee has a right to obtain a copy of the criminal records report from the facility, challenge the accuracy and completeness of the report, and request a waiver in accordance with subsection (m) of this Section.
 - 3) That the applicant, if hired conditionally, may be terminated if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the applicant's identity is validated and it is determined

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

that the applicant or employee does not have a disqualifying criminal history record based on a fingerprint-based records check pursuant to subsection (k) of this Section.

- 4) That the applicant, if not hired conditionally, shall not be hired if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (k) of this Section.

- 5) That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the employee's record is cleared based on a fingerprint-based records check pursuant to subsection (k) of this Section. (Section 30(e) and (f) of the Health Care Worker Background Check Act)

- l) A facility may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA criminal history record check. (Section 30(g) of the Health Care Worker Background Check Act)

- k) An applicant or employee whose non-fingerprint-based UCIA criminal history record check indicates a conviction for committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) of this Section may request that the facility or its designee commence a fingerprint-based UCIA criminal records check by submitting any necessary fees and information in a form and manner prescribed by the Department of State Police. (Section 35 of the Health Care Worker Background Check Act)

- l) A facility having actual knowledge from a source other than a non-fingerprint check that an employee has been convicted of committing or attempting to commit one of the offenses enumerated in Section 25 of the Act must initiate a fingerprint-based background check within 10 working days after acquiring that knowledge. The facility may continue to employ that individual in a direct care position, may reassign that individual to a non-direct care position, or may suspend the individual until the results of the fingerprint-based background check are received. (Section 30(d) of the Health Care Worker Background Check Act)

- m) An applicant, employee or employer may request a waiver to subsection (a)(1), (b) or (c) of this Section by submitting the following to the Department within five working days after the receipt of the criminal records report:

- 1) A completed fingerprint-based UCIA criminal records check form (Section 40(a) of the Health Care Worker Background Check Act) (which the Department will forward to the Department of State Police); and
- 2) A certified check, money order or facility check made payable to

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA criminal records check.

- n) The Department may check the results of the fingerprint-based UCIA criminal records check instead of the items required by subsections (m)(1) and (2) above. (Section 40(a-5) of the Health Care Worker Background Check Act)

- o) The Department may grant a waiver based on mitigating circumstances, which may include:

- 1) The age of the individual at which the crime was committed;
- 2) The circumstances surrounding the crime;
- 3) The length of time since the conviction;
- 4) The applicant's or employee's criminal history since the conviction;
- 5) The applicant's or employee's work history;
- 6) The applicant's or employee's current employment references;
- 7) The applicant's or employee's character references;
- 8) Nurse Aide Registry records; and
- 9) Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents. (Section 40(b) of the Health Care Worker Background Check Act)

- p) An individual shall not be employed in a direct care position from the time that the employer receives the results of a non-fingerprint check containing disqualifying conditions until the time that the individual receives a waiver from the Department. If the individual challenges the results of the non-fingerprint check, the employer may continue to employ the individual in a direct care position if the individual presents convincing evidence to the employer that the non-fingerprint check is invalid. If the individual challenges the results of the non-fingerprint check, his or her identity shall be validated by a fingerprint-based records check in accordance with subsection (k) of this Section. (Section 40(d) of the Health Care Worker Background Check Act)

- q) A facility is not obligated to employ or offer permanent employment to an applicant, or to retain an employee who is granted a waiver. (Section 40(f) of the Health Care Worker Background Check Act)

- r) A facility may retain the individual in a direct care position if the individual presents clear and convincing evidence to the facility that the non-fingerprint-based criminal records report is invalid and if there is a good faith belief on the part of the employer that the individual did not commit an offense listed in subsections (a)(1) to (27) of this Section, pending positive verification through a fingerprint-based criminal records check. Such evidence may include, but not be limited to:

- 1) Certified court records;
- 2) Written verification from the State's Attorney's office that prosecuted the conviction at issue;

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 3) written verification of employment during the time period during which the crime was committed or during the incarceration period stated in the report;
- 4) a signed affidavit from the individual concerning the validity of the report; or
- 5) documentation from a local law enforcement agency that the individual was not convicted of a disqualifying crime.
- s) This Section shall not apply to:
- 1) An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State;
- 2) An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State; or
- 3) A student in a licensed health care field including, but not limited to, a student nurse, a physical therapy student, or a respiratory care student unless he or she is employed by a health care employer in a position with duties involving direct care for residents. (Section 20 of the Health Care Worker Background Check Act).
- t) The facility must send a copy of the results of the UCIA criminal history record check to the State Nurse Aide Registry for those individuals who are on the Registry. (Section 30(b) of the Health Care Worker Background Check Act). The facility shall include the individual's Social Security number on the criminal history record check results.
- u) The facility shall retain on file for a period of 5 years records of criminal records requests for all employees. The facility shall retain the results of the UCIA criminal history records check and waiver, if appropriate, for the duration of the individual's employment. The files shall be subject to inspection by the Department. A fine of \$500 shall be imposed for failure to maintain these records. (Section 50 of the Health Care Worker Background Check Act).
- v) The facility shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.

(Source: Added at 24 Ill. Reg. 14016, effective AUG 31, 2000)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Freestanding Emergency Center Demonstration Program Code
- 2) Code Citation: 77 Ill. Adm. Code 518
- 3) Section Numbers: Adopted Action: 518.1610 New Section
- 4) Statutory Authority: Emergency Medical Services Systems Act [210 ILCS 50]
- 5) Effective date of rules/amendments: August 31, 2000
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain any incorporations by reference? No
- 8) A copy of the adopted rule, amendment, or repealer, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice(s) of Proposal was Published in Illinois Register: March 24, 2000 - 24 Ill. Reg. 4805
- 10) Has JCAR issued a Statement of Objection to this rule? No
- 11) Difference between proposal and final version: The following changes were made in response to comments received during the first notice or public comment period:
1. In the Table of Contents "Workers" was changed to "Worker".
 2. In Section 518.1610(a)(26) "27" was changed to "127".
 3. In Section 518.1610(f), "Beginning January 1, 1995, when" was deleted and "When" was added.
 4. Subsection (t) was deleted.
 5. Subsection "u" was changed to "t".
 6. Subsection "v" was changed to "u".
 7. Subsection "w" was changed to "y".
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were requested by JCAR.

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED AMENDMENTS

- 13) Will these amendments replace emergency amendments currently in effect?
No
- 14) Are there any other amendments pending on this Part? No

15) Summary and purpose of the amendments: Public Act 91-598 (effective January 1, 2000) amended the Health Care Worker Background Check Act [225 ILCS 46] to include "programs listed by the Emergency Medical Services (EMS) Systems Act as Freestanding Emergency Centers" in the definition of "health care employer." The Health Care Worker Background Check Act requires non-licensed direct care workers to have an Illinois State Police criminal history records check as a condition of employment by a health care employer.

A new Section implementing health care worker background check requirements is being added to the rules. Procedures for initiating background checks are set forth. The amendments list crimes for which a conviction will disqualify an individual from employment. Procedures for obtaining a waiver from the Department, which will allow the individual to work, are included. Guidelines for determining which employees provide "direct care" are included. Notification and record-keeping procedures are specified. Exceptions to the background check requirements are stated. In addition, the amendments include provisions governing individuals who have convictions in other states; individuals who contest the results of the non-fingerprint-based records check; and employers who have actual knowledge of an employee's conviction subsequent to completion of the non-fingerprint check.

- 16) Information and questions regarding these adopted amendments/rules shall be directed to:

Paul Thompson
Division of Legal Services
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
217/782-2043
rules@ph.state.il.us

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER 1: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER f: EMERGENCY SERVICES AND HIGHWAY SAFETY

PART 518
FREESTANDING EMERGENCY CENTER DEMONSTRATION PROGRAM CODE

Section	
518.1000	Definitions
518.1050	Incorporated and Referenced Materials
518.1100	Freestanding Emergency Center Demonstration Program
518.1150	Licensure Application and Renewal
518.1200	Emergency Suspension Orders
518.1250	Violations, Hearings and Fines
518.1300	Governing Board
518.1350	Provision of Emergency Services
518.1400	EMS System Participation
518.1450	Patients' Rights
518.1500	Language Assistance Services
518.1550	Personnel Services
518.1600	Personnel Requirements
518.1610	Health Care Worker Background Check
518.1650	Medical Staff Organization
518.1700	Nursing Services
518.1750	Accounting
518.1800	Quality Assurance and Reporting
518.1850	Orders for Medications and Treatments
518.1900	Infection Control
518.1950	Sterilization and Processing of Supplies
518.2000	Laboratory Services
518.2010	Radiological Services
518.2020	Comprehensive Emergency Treatment Services
518.2030	Notification of Emergency Personnel
518.2040	Community or Area-wide Planning
518.2050	Disaster and Mass Casualty Program
518.2060	Emergency Services for Sexual Assault Victims
518.2070	Pharmacy Service
518.2080	Housekeeping Service
518.2090	Insect and Rodent Control
518.2100	Laundry Service
518.2110	Food Service
518.2120	Maintenance
518.2130	Fire Safety
518.2140	Water Supply
518.2150	Garbage, Waste and Sewage Handling and Disposal
518.2160	Submission of Architectural Plans
518.2170	Preparation of Drawings and Specifications--Submission Requirements
518.2180	Construction Details

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

518.2190 Finishes
 518.2200 Structural Requirements
 518.2210 Mechanical Requirements
 518.2220 Plumbing and Other Piping Systems
 518.2230 Electrical Requirements
 518.2240 Building Requirements
 TABLE A Piping Locations for Oxygen, Vacuum and Medical Compressed Air
 TABLE B Insulation/Building Perimeter
 ILLUSTRATION A Seismic Zone Map

AUTHORITY: Implementing and authorized by Section 32.5 of the Emergency Medical Services (EMS) Systems Act [210 ILCS 50] (see P.A. 90-67, effective July 8, 1997).

SOURCE: Adopted at 22 Ill. Reg. 13756, effective July 10, 1998; amended at 24 Ill. Reg. **14026**, effective Aug. 1, 2000.

Section 518.1610 Health Care Worker Background Check

a) The facility shall not knowingly hire any individual in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit one or more of the following offenses: Section 25(a) of the Health Care Worker Background Check Act [225 ILCS 46/25]:

- 1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 8-1.1 and 8-1.2));
- 2) Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3 of the Criminal Code of 1961 [720 ILCS 5/9-1, 9-3.2, and 9-3.3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3) (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3) (Ill. Rev. Stat. 1995, ch. 38, par. 9-1.1, Ill. Rev. Stat. 1961, ch. 38, pars. 2, 236, 358, 360, 361, 362, 363, 364, 365, 370, 373, 378, 417, and 474));
- 3) Kidnaping or child abduction (Sections 10-1, 10-2, 10-5 and 10-7 of the Criminal Code of 1961 [720 ILCS 5/10-1, 10-2, 10-5, and 10-7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-1, 10-2, 10-5, and 10-7) (Ill. Rev. Stat. 1995, ch. 38, par. 10-6, Ill. Rev. Stat. 1961, ch. 38, pars. 384 to 386));
- 4) Unlawful restraint or forcible detention (Sections 10-3, 10-3.1, and 10-4 of the Criminal Code of 1961 [720 ILCS 5/10-3, 10-3.1, and 10-4] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-3, 10-3.1, and 10-4) (Ill. Rev. Stat. 1961, ch. 38, pars. 252, 252.1, and 252.4));
- 5) Indecent solicitation of a child, sexual exploitation of a child, exploitation of a child, child pornography (Sections 11-6,

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 11-9.1, 11-19.2, and 11-20.1 of the Criminal Code of 1961 [720 ILCS 5/11-6, 11-9.1, 11-19.2, and 11-20.1] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 11-6, 11-19.2, and 11-20.1) (Ill. Rev. Stat. 1995, ch. 38, par. 11-20a; Ill. Rev. Stat. 1961, ch. 38, pars. 103 and 104));
- 6) Assault, battery, malicious battery, tampering with food, drugs or cosmetics, or infliction of great bodily harm (Sections 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7 of the Criminal Code of 1961 [720 ILCS 5/12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7) (Ill. Rev. Stat. 1995, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. 55, 56, and 56a to 60b));
- 7) Aggravated stalking (Section 12-7.4 of the Criminal Code of 1961 [720 ILCS 5/12-7.4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-7.4));
- 8) Home invasion (Section 12-11 of the Criminal Code of 1961 [720 ILCS 5/12-11] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-11));
- 9) Sexual assault or sexual abuse (Sections 12-13, 12-14, 12-14.1, 12-15, and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-13, 12-14, 12-14.1, 12-15, and 12-16] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 11-1, 11-2, 11-3, 11-4, 11-5, 12-13, 12-14, 12-15, and 12-16) (Ill. Rev. Stat. 1995, ch. 38, pars. 11-1, 11-2, 11-3, 11-4, 11-5, 12-13, 12-14, 12-15, and 12-16) (Ill. Rev. Stat. 1961, ch. 38, pars. 11-1, 11-4, and 11-4.1) (Ill. Rev. Stat. 1961, ch. 38, pars. 109, 141, 142, 490, and 491));
- 10) Abuse or gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-19));
- 11) Criminal neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-21));
- 12) Endangering the life or health of a child (Section 12-21.6 of the Criminal Code of 1961 [720 ILCS 5/12-21.6] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354; Ill. Rev. Stat. 1961, ch. 38, par. 95));
- 13) Ritual mutilation, ritualized abuse of a child (Sections 12-32 and 12-33 of the Criminal Code of 1961 [720 ILCS 5/12-32 and 12-33] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-32 and 12-33));
- 14) Theft, retail theft (Sections 16-1 and 16A-3 of the Criminal Code of 1961 [720 ILCS 5/16-1 and 16A-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 16-1 and 16A-3) (Ill. Rev. Stat. 1961, ch. 38, pars. 62, 207 to 218, 240 to 244, 246, 253, 254.1, 258, 262, 262a, 273, 290, 291, 301a, 354, 387 to 388b, 389, 393 to 400, 404a to 404c, 438, 492 to 496));

DEPARTMENT OF PUBLIC HEALTH

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

NOTICE OF ADOPTED AMENDMENTS

- 15) Financial exploitation of an elderly or disabled person (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 16-1.3));
 - 16) Forgery (Section 17-3 of the Criminal Code of 1961 [720 ILCS 5/17-3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 17-3); Ill. Rev. Stat. 1961, ch. 38, par. 151 and 277 to 286));
 - 17) Robbery, armed robbery (Sections 18-1 and 18-2 of the Criminal Code of 1961 [720 ILCS 5/18-1 and 18-2] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 18-1 and 18-2));
 - 18) Vehicular hijacking, aggravated vehicular hijacking, aggravated robbery (Sections 18-3, 18-4, and 18-5 of the Criminal Code of 1961 [720 ILCS 5/18-3, 18-4, and 18-5]);
 - 19) Burglary, residential burglary (Sections 19-1 and 19-3 of the Criminal Code of 1961 [720 ILCS 5/19-1 and 19-3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 19-1 and 19-3); Ill. Rev. Stat. 1961, ch. 38, par. 84 to 86, 88, and 501));
 - 20) Criminal trespass to a residence (Section 19-4 of the Criminal Code of 1961 [720 ILCS 5/19-4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 19-4));
 - 21) ICS 5/20-1 and 20-1.1 of the Criminal Code of 1961 [720 ILCS 5/20-1 and 20-1.1] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 20-1 and 20-1.1; Ill. Rev. Stat. 1961, ch. 38, par. 48 to 53 and 236 to 238)):
 - 22) Unlawful use of weapons, aggravated discharge of a firearm, or reckless discharge of a firearm (Sections 24-1, 24-1.2, and 24-1.5 of the Criminal Code of 1961 [720 ILCS 5/24-1, 24-1.2, and 24-1.5] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 24-1 and 24-1.2); Ill. Rev. Stat. 1961, ch. 38, par. 152, 155, 155a to 158b, 414a to 414c, 414e, and 414d));
 - 23) Armed violence - elements of the offenses (Section 33a-2 of the Criminal Code of 1961 [720 ILCS 5/33a-2] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 33a-2));
 - 24) Those provided in Section 4 of the Wrongs to Children Act [Section 4 of the Wrongs to Children Act [720 ILCS 5/7-4] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354)):
 - 25) Cruelty to children (Section 53 of the Criminal Jurisprudence Act [720 ILCS 11/53] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2368)):
 - 26) Manufacturer, delivery or trafficking of cannabis, delivery of cannabis on school grounds, or delivery to person under 18; violation by person under 18 (Sections 5, 5.1, 5.2, 7, and 9 of the Cannabis Control Act [720 ILCS 550/5, 5.1, 5.2, 7, and 9] (formerly Ill. Rev. Stat. 1991, ch. 56 1/2, par. 705, 705.1, 705.2, 707, and 709)) or
 - 27) Manufacturer, delivery or trafficking of controlled substances (Sections 401, 401.1, 404, 405, 405.1, 407 and 407.1 of the Illinois Controlled Substance Act [720 ILCS 570/401, 401.1, 404, 405, 405.1, 407, 407.1] (formerly Ill. Rev. Stat. 1991, ch. 56
- b) The facility shall not knowingly employ or retain any individual in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) of this Section unless the applicant, employee or employer obtains a waiver pursuant to subsections (u) and (v) of this Section. (Section 25(a) of the Health Care Worker Background Check Act)
 - c) A facility shall not hire, employ, or retain any individual in a position with duties involving direct care of residents if the facility becomes aware that the individual has been convicted in another State of committing or attempting to commit an offense that has the same or similar elements as an offense listed in subsections (a)(1) to (27) of this Section, as verified by court records, records from a State agency, or an FBI criminal history record check. This shall not be construed to mean that a facility has an obligation to conduct a criminal history records check in other States in which an employee has resided. (Section 25(b) of the Act)
 - d) For the purpose of this Section:
 - 1) "Applicant" means an individual seeking employment with a facility who has received a bona fide conditional offer of employment.
 - 2) "Conditional offer of employment" means a bona fide offer of employment by a facility to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses listed in subsections (a)(1) to (27) of this Section.
 - 3) "Direct care" means the provision of nursing care or assistance with feeding, dressing, movement, bathing, or other personal needs.
 - 4) "Enfranchise" means the obtaining of the authorization for a record check from a student, applicant, or employee. (Section 15 of the Health Care Worker Background Check Act)
 - e) For purposes of the Health Care Worker Background Check Act, the facility shall establish a policy defining which employees provide direct care. In making this determination the facility shall consider the following:
 - 1) The employee's assigned job responsibilities as set forth in the employee's job description
 - 2) Whether the employee is required to or has the opportunity to be alone with residents, with the exception of infrequent or unusual occasions; and
 - 3) Whether the employee's regular responsibilities include physical contact with residents, for example to provide therapy or to draw blood.
 - f) When the facility makes a conditional offer of employment to an applicant who is not exempt under subsection (s) of this Section, for

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

a position with duties that involve direct care for residents, the employer shall inquire of the Nurse Aide Registry as to the status of the applicant's Uniform Conviction Information Act (UCIA) criminal history record check. If a UCIA criminal history record check has not been conducted within the last 12 months, the facility must initiate or have initiated on its behalf a UCIA criminal history record check for that applicant. (Section 30(c) of the Health Care Worker Background Check Act)

g) The facility shall transmit all necessary information and fees to the Illinois State Police within 10 working days after receipt of the authorization. (Section 15 of the Health Care Worker Background Check Act)

h) The facility may accept an authentic UCIA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsection (f) of this Section.

i) The request for a UCIA criminal history record check shall be made as prescribed by the Department of State Police. The applicant or employee must be notified of the following whenever a non-fingerprint-based UCIA criminal history record check is made:

- 1) That the facility shall request or have requested on its behalf a non-fingerprint-based UCIA criminal history record check pursuant to the Health Care Worker Background Check Act.
- 2) That the applicant or employee has a right to obtain a copy of the criminal records report from the facility, challenge the accuracy and completeness of the report, and request a waiver in accordance with subsection (m) of this Section.
- 3) That the applicant, if hired conditionally, may be terminated if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the applicant's identity is validated and it is determined that the applicant or employee does not have a disqualifying criminal history record based on a fingerprint-based records check pursuant to subsection (k) of this Section.
- 4) That the applicant, if not hired conditionally, shall not be hired if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (k) of this Section.
- 5) That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the employee's record is cleared based on a fingerprint-based records check pursuant to subsection (k) of this Section. (Section 30(e) and (f) of the Health Care Worker Background Check Act)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 1) A facility may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA criminal history record check. Section 30(g) of the Health Care Worker Background Check Act.
- k) An applicant or employee whose non-fingerprint-based UCIA criminal history record check indicates a conviction for committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) of this Section may request that the facility or its designee commence a fingerprint-based UCIA criminal records check by submitting any necessary fees and information in a form and manner prescribed by the Department of State Police. (Section 35 of the Health Care Worker Background Check Act)
- l) A facility having actual knowledge from a source other than a non-fingerprint check that an employee has been convicted of committing or attempting to commit one of the offenses enumerated in Section 25 of the Act must initiate a fingerprint-based background check within 10 working days after acquiring that knowledge. The facility may continue to employ that individual in a direct care position, may reassign that individual to a non-direct care position, or may suspend the individual until the results of the fingerprint-based background check are received. (Section 30(d) of the Health Care Worker Background Check Act)
- m) An applicant, employee or employer may request a waiver to subsection (a), (b) or (c) of this Section by submitting the following to the Department within five working days after the receipt of the criminal records report:
 - 1) A completed fingerprint-based UCIA criminal records check form (Section 40(a) of the Health Care Worker Background Check Act) (which the Department will forward to the Department of State Police); and
 - 2) A certified check, money order or facility check made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA criminal records check.
- n) The Department may check the results of the fingerprint-based UCIA criminal records check instead of the items required by subsections (m)(1) and (2) above. (Section 40(a-5) of the Health Care Worker Background Check Act)
- o) The Department may grant a waiver based on mitigating circumstances, which may include:
 - 1) The age of the individual at which the crime was committed;
 - 2) The circumstances surrounding the crime;
 - 3) The length of time since the conviction;
 - 4) The applicant's or employee's criminal history since the conviction;
 - 5) The applicant's or employee's work history;
 - 6) The applicant's or employee's current employment references;
 - 7) The applicant's or employee's character references;
 - 8) Nurse Aide Registry records; and

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 9) Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents. (Section 40(b) of the Health Care Worker Background Check Act)

p) An individual shall not be employed in a direct care position from the time that the employer receives the results of a non-fingerprint check containing disqualifying conditions until the time that the individual receives a waiver from the Department. If the individual challenges the results of the non-fingerprint check, the employer may continue to employ the individual in a direct care position if the individual presents convincing evidence to the employer that the non-fingerprint check is invalid. If the individual challenges the results of the non-fingerprint check, his or her identity shall be validated by a fingerprint-based records check in accordance with subsection (k) of this Section. (Section 40(d) of the Health Care Worker Background Check Act)

q) A facility is not obligated to employ or offer permanent employment to an applicant, or to retain an employee who is granted a waiver. (Section 40(f) of the Health Care Worker Background Check Act)

r) A facility may retain the individual in a direct care position if the individual presents clear and convincing evidence to the facility that the non-fingerprint-based criminal records report is invalid and if there is a good faith belief on the part of the employer that the individual did not commit an offense listed in subsections (a)(1) to (27) of this Section, pending positive verification through a fingerprint-based criminal records check. Such evidence may include, but not be limited to:

- 1) certified court records;
- 2) written verification from the State's Attorney's office that prosecuted the conviction at issue;
- 3) written verification of employment during the time period during which the crime was committed or during the incarceration period stated in the report;
- 4) a signed affidavit from the individual concerning the validity of the report; or
- 5) documentation from a local law enforcement agency that the individual was not convicted of a disqualifying crime.

s) This Section shall not apply to:

- 1) An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State;
- 2) An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State; or
- 3) A student in a licensed health care field including, but not limited to, a student nurse, a physical therapy student, or a respiratory care student unless he or she is employed by a health

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

care employer in a position with duties involving direct care for residents. (Section 20 of the Health Care Worker Background Check Act)

b) The facility must send a copy of the results of the UCIA criminal history record check to the State Nurse Aide Registry for those individuals who are on the Registry. (Section 30(b) of the Health Care Worker Background Check Act) The facility shall include the individual's Social Security number on the criminal history record check results.

c) The facility shall retain on file for a period of 5 years records of criminal records requests for all employees. The facility shall retain the results of the UCIA criminal history records check and waiver, if appropriate, for the duration of the individual's employment. The files shall be subject to inspection by the Department. A fine of \$500 shall be imposed for failure to maintain these records. (Section 50 of the Health Care Worker Background Check Act)

d) The facility shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.

(Source: Added at 24 Ill. Reg. 14026 effective

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Postsurgical Recovery Care Center Demonstration Program Code

2) Code Citation: 77 Ill. Adm. Code 210

3) Section Numbers: Adopted Action:
210.2250 New Section

4) Statutory Authority: Alternative Health Care Delivery Act [210 ILCS 3]

5) Effective Date of Rulemaking: August 31, 2000

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: March 17, 2000 - 24 Ill. Reg. 4160

10) Has JCAR issued a Statement of Objection to this amendment? No

11) Differences between proposal and final version: The following changes were made in response to comments received during the first notice or public comment period:

1. A blank line and period were added in the Source Note.
2. In Section 260.1750(a)(3), a space was added between "State" and "[27]".
3. In Section 260.1750(b), a space was added between "to" and "[27]".
4. In Section 260.1750(f), "Beginning January 1, 1996, when" was deleted and "When" was inserted.
5. In Section 260.1750(l)(2), "there port" was changed to "the report".
6. Subsection "(t)" was deleted; subsection "(u)" was relettered to "(t)", "(v)" was relettered to "(u)" was relettered to "(t)" was relettered to "(u); "(w)" was relettered to "(v)".
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were requested by JCAR.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

13) Will this rulemaking replace an emergency amendment currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: Public Act 91-598 (effective January 1, 2000) amended the Health Care Worker Background Check Act [225 ILCS 46] to include "location licensed under the Alternative Health Care Delivery Act" in the definition of "health care employer." The Health Care Worker Background Check Act requires non-licensed direct care workers to have an Illinois State Police criminal history records check as a condition of employment by health care employer.

A new Section implementing health care worker background requirements is being added to the rules. Procedures for initiating background checks are set forth. The amendments list crimes for which a conviction will disqualify an individual from employment. Procedures for obtaining a waiver from the Department, which will allow the individual to work, are included. Guidelines for determining which employees provide "direct care" are included. Notification and record-keeping procedures are specified. Exceptions to the background check requirements are stated. In addition, the amendments include provisions governing individuals who have convictions in other states; individuals who contest the results of the non-fingerprint-based records check; and employers who have actual knowledge of an employee's conviction subsequent to completion of the non-fingerprint check k.

16) Information and questions regarding this adopted amendment shall be directed to:

Paul Thompson, Division of Legal Services
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
217/782-2043
rules@idph.state.il.us

The full text of the adopted amendment begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
 CHAPTER 1: DEPARTMENT OF PUBLIC HEALTH
 SUBCHAPTER b: HOSPITALS AND AMBULATORY CARE FACILITIES

PART 210

POSTSURGICAL RECOVERY CARE CENTER DEMONSTRATION PROGRAM CODE

Section	
210.1000	Definitions
210.1050	Referenced Materials
210.1100	Demonstration Program Elements
210.1200	Application for and Issuance of a License to Operate a Postsurgical Recovery Care Center Model
210.1300	Obligations and Privileges of Postsurgical Recovery Care Center Models
210.1400	Inspections and Investigations
210.1500	Notice of Violation and Plan of Correction
210.1600	Adverse Licensure Action
210.1700	Admission Practices
210.1800	Approval of Protocols for the Admission of Postsurgical Patients
210.1900	Standards of Professional Practice
210.2000	Length of Stay
210.2100	Patient's Rights
210.2200	Personnel
210.2250	Health Care Worker Background Check
210.2300	Patient Care
210.2400	Infection Control
210.2500	Laboratory, Pharmacy and Radiological Services
210.2600	Records and Reports
210.2700	Transfer Agreement
210.2800	Food Service
210.2900	Physical Plant
210.3000	Quality Assessment and Improvement

AUTHORITY: Implementing and authorized by the Alternative Health Care Delivery Act [210 ILCS 3].

SOURCE: Adopted at 18 Ill. Reg. 15824, effective October 15, 1994; amended at 21 Ill. Reg. 12456, effective October 15, 1999; amended at 24 Ill. Reg. **14037**, effective April 30, 2000.

Section 210.2250 Health Care Worker Background Check

- a) The facility shall not knowingly hire any individual in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit one or more of the following offenses (Section 25(a) of the Health Care Worker

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Background Check Act [225 ILCS 46/25]11:

- 1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 8-1.1 and 8-1.2))11
- 2) Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3 of the Criminal Code of 1961 [720 ILCS 5/9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2 and 9-3.3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3))11. Rev. Stat. 1985, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. 3, 236, 358, 360, 361, 362, 363, 364, 364a, 365, 370, 373, 373a, 417, and 474))11
- 3) Kidnaping or child abduction (Sections 10-1, 10-2, 10-5 and 10-7 of the Criminal Code of 1961 [720 ILCS 5/10-1, 10-2, 10-5, and 10-7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-1, 10-2, 10-5, and 10-7); Ill. Rev. Stat. 1985, ch. 38, par. 10-6; Ill. Rev. Stat. 1961, ch. 38, pars. 384 to 386))11
- 4) Unlawful restraint or forcible detention (Sections 10-3, 10-3.1, and 10-4 of the Criminal Code of 1961 [720 ILCS 5/10-3, 10-3.1, and 10-4] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-3, 10-3.1, and 10-4); Ill. Rev. Stat. 1961, ch. 38, pars. 252, 252.1, and 252.4))11
- 5) Indecent solicitation of a child, sexual exploitation of a child, exploitation of a child, child pornography (Sections 11-6, 11-9.1, 11-19.2, and 11-20.1 of the Criminal Code of 1961 [720 ILCS 5/11-6, 11-9.1, 11-19.2, and 11-20.1] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 11-6, 11-19.2, and 11-20.1); Ill. Rev. Stat. 1983, ch. 38, par. 11-20a; Ill. Rev. Stat. 1961, ch. 38, pars. 103 and 104))11
- 6) Assault, battery, heinous battery, tampering with food, drugs or cosmetics, or infliction of great bodily harm (Sections 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7 of the Criminal Code of 1961 [720 ILCS 5/12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7); Ill. Rev. Stat. 1985, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. 55, 56, and 56a to 60b))11
- 7) Aggravated stalking (Section 12-7.4 of the Criminal Code of 1961 [720 ILCS 5/12-7.4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-7.4))11
- 8) Home invasion (Section 12-11 of the Criminal Code of 1961 [720 ILCS 5/12-11] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-11))11
- 9) Sexual assault or sexual abuse (Sections 12-13, 12-14, 12-14.1, 12-15, and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-13, 12-15, and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-13,

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 12-14, 12-14.1, 12-15, and 12-16] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 11-1, 11-2, 11-3, 11-4, 11-5, 12-13, 12-14, 12-15, and 12-16) (Ill. Rev. Stat. 1989, ch. 38, pars. 11-1, 11-4, and 11-4.1; Ill. Rev. Stat. 1961, ch. 38, pars. 109, 141, 142, 490, and 491)).
- 10) Abuse or gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-19)).
- 11) Criminal neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-21)).
- 12) Endangering the life or health of a child (Section 12-21.6 of the Criminal Code of 1961 [720 ILCS 5/12-21.6] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354; Ill. Rev. Stat. 1961, ch. 38, par. 95)).
- 13) Ritual mutilation, ritualized abuse of a child (Sections 12-32 and 12-33 of the Criminal Code of 1961 [720 ILCS 5/12-32 and 12-33] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-32 and 12-33)).
- 14) Theft, retail theft (Sections 16-1 and 16A-3 of the Criminal Code of 1961 [720 ILCS 5/16-1 and 16A-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 16-1 and 16A-3) (Ill. Rev. Stat. 1961, ch. 38, pars. 62, 207 to 218, 240 to 244, 246, 253, 254.1, 258, 262, 262a, 273, 290, 291, 301a, 354, 387 to 388b, 389, 393 to 400, 404a to 404c, 438, 492 to 496)).
- 15) Financial exploitation of an elderly or disabled person (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 16-1.3)).
- 16) Forgery (Section 17-3 of the Criminal Code of 1961 [720 ILCS 5/17-3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 17-3; Ill. Rev. Stat. 1961, ch. 38, pars. 191 and 277 to 286)).
- 17) Robbery, armed robbery (Sections 18-1 and 18-2 of the Criminal Code of 1961 [720 ILCS 5/18-1 and 18-2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 18-1 and 18-2)).
- 18) Vehicular hijacking, aggravated vehicular hijacking, aggravated robbery (Sections 18-3, 18-4, and 18-5 of the Criminal Code of 1961 [720 ILCS 5/18-3, 18-4, and 18-5]).
- 19) Burglary, residential burglary (Sections 19-1 and 19-3 of the Criminal Code of 1961 [720 ILCS 5/19-1 and 19-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 19-1 and 19-3; Ill. Rev. Stat. 1961, ch. 38, pars. 84 to 86, 88, and 501)).
- 20) Criminal trespass to a residence (Section 19-4 of the Criminal Code of 1961 [720 ILCS 5/19-4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 19-4)).
- 21) Arson (Sections 20-1 and 20-1.1 of the Criminal Code of 1961 [720 ILCS 5/20-1 and 20-1.1] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 20-1 and 20-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. 48 to 53 and 236 to 238)).

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 22) Unlawful use of weapons, aggravated discharge of a firearm, or reckless discharge of a firearm (Sections 24-1, 24-1.2, and 24-1.5 of the Criminal Code of 1961 [720 ILCS 5/24-1, 24-1.2, and 24-1.5] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 24-1 and 24-1.2; Ill. Rev. Stat. 1961, ch. 38, pars. 152, 152a, 155a to 158b, 414a to 414c, 414e, and 414g)).
- 23) Armed violence - elements of the offense (Section 33A-2 of the Criminal Code of 1961 [720 ILCS 5/33A-2] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 33A-2)).
- 24) Those provided in Section 4 of the Wrongs to Children Act (Section 4 of the Wrongs to Children Act [720 ILCS 150/4] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354)).
- 25) Cruelty to children (Section 53 of the Criminal Jurisdiction Act [720 ILCS 115/53] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2368)).
- 26) Manufacture, delivery or trafficking of cannabis, delivery of cannabis on school grounds, or delivery to person under 18; violation by person under 18 (Sections 5-1, 5.1, 5.2, 7, and 9 of the Cannabis Control Act [720 ILCS 550/5-1, 5.2, 7, and 9] (formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 705.1, 705.2, 707, and 709)); or
- 27) Manufacture, delivery or trafficking of controlled substances (Sections 401, 401.1, 404, 405, 405.1, 407 and 407.1 of the Illinois Controlled Substance Act [720 ILCS 570/401, 401.1, 404, 405, 405.1, 407 and 407.1] (formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 1407, 1407.1, 1408, 1408, 1405.1, 1407, and 1407.1)).
- b) The facility shall not knowingly employ or retain an individual in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) of this Section unless the applicant, employee or employer obtains a waiver pursuant to subsections (m) and (n) of this Section. (Section 25(a) of the Health Care Worker Background Check Act)
- c) A facility shall not hire, employ, or retain any individual in a position with duties involving direct care of residents if the facility becomes aware that the individual has been convicted in another state of committing or attempting to commit an offense that has the same or similar elements as an offense listed in subsections (a)(1) to (27) of this Section, as verified by court records, records from a State agency, or an FBI criminal history record check. This shall not be construed to mean that a facility has an obligation to conduct a criminal history records check in other states in which an employee has resided. (Section 25(b) of the Act)
- d) For the purpose of this Section:
- 1) "Applicant" means an individual seeking employment with a facility who has received a bona fide conditional offer of employment.
 - 2) "Conditional offer of employment" means a bona fide offer of

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

employment by a facility to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses listed in subsections (a)(1) to (27) of this Section.

3) "Direct care" means the provision of nursing care or assistance with feeding, dressing, movement, bathing, or other personal needs.

4) "Initiate" means the obtaining of the authorization for a record check from a student, applicant, or employee. (Section 15 of the Health Care Worker Background Check Act)

5) For purposes of the Health Care Worker Background Check Act, the facility shall establish a policy defining which employees provide direct care. In making this determination the facility shall consider the following:

1) The employee's assigned job responsibilities as set forth in the employee's job description;

2) Whether the employee is required to or has the opportunity to be alone with residents, with the exception of infrequent or unusual occasions; and

3) Whether the employee's regular responsibilities include physical contact with residents, for example to provide therapy or to draw blood.

f) When the facility makes a conditional offer of employment to an applicant who is not exempt under subsection (s) of this Section, for a position with duties that involve direct care for residents, the employer shall inquire of the Nurse Aide Registry as to the status of the applicant's Uniform Conviction Information Act (UCIA) criminal history record check. If a UCIA criminal history record check has not been conducted within the last 12 months, the facility must initiate or have initiated on its behalf a UCIA criminal history record check for that applicant. (Section 30(c) of the Health Care Worker Background Check Act)

g) The facility shall transmit all necessary information and fees to the Illinois State Police within 10 working days after receipt of the authorization. (Section 15 of the Health Care Worker Background Check Act)

h) The facility may accept an authentic UCIA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsection (f) of this Section.

i) The request for a UCIA criminal history record check shall be made as prescribed by the Department of State Police. The applicant or employee must be notified of the following whenever a non-fingerprint-based UCIA criminal history record check is made:

1) That the facility shall request or have requested on its behalf a non-fingerprint-based UCIA criminal history record check pursuant to the Health Care Worker Background Check Act.

2) That the applicant or employee has a right to obtain a copy of

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

the criminal records report from the facility, challenge the accuracy and completeness of the report, and request a waiver in accordance with subsection (m) of this Section.

3) That the applicant, if hired conditionally, may be terminated if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the applicant's identity is validated and it is determined that the applicant or employee does not have a disqualifying criminal history record based on a fingerprint-based records check pursuant to subsection (k) of this Section.

4) That the applicant, if not hired conditionally, shall not be hired if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (k) of this Section.

5) That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the employee's record is cleared based on a fingerprint-based records check pursuant to subsection (k) of this Section. (Section 30(e) and (f) of the Health Care Worker Background Check Act)

j) A facility may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA criminal history record check. (Section 30(g) of the Health Care Worker Background Check Act)

k) An applicant or employee whose non-fingerprint-based UCIA criminal history record check indicates a conviction for committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) of this Section may request that the facility or its designee commence a fingerprint-based UCIA criminal records check by submitting any necessary fees and information in a form and manner prescribed by the Department of State Police. (Section 35 of the Health Care Worker Background Check Act)

l) A facility having actual knowledge from a source other than a non-fingerprint check that an employee has been convicted of committing or attempting to commit one of the offenses enumerated in Section 25 of the Act must initiate a fingerprint-based background check within 10 working days after acquiring that knowledge. The facility may continue to employ that individual in a direct care position, may reassign that individual to a non-direct care position, or may suspend the individual until the results of the fingerprint-based background check are received. (Section 30(d) of the Health Care Worker Background Check Act)

m) An applicant, employee or employer may request a waiver to subsection

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

(a), (b) or (c) of this Section by submitting the following to the Department within five working days after the receipt of the criminal records report:

- 1) A completed fingerprint-based UCIA criminal records check form (Section 40(a) of the Health Care Worker Background Check Act) (which the Department will forward to the Department of State Police); and
 - 2) A certified check, money order or facility check made payable to the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA criminal records check.
- b) The Department may accept the results of the fingerprint-based UCIA criminal records check instead of the items required by subsections (a)(1) and (2) above. (Section 40(a-5) of the Health Care Worker Background Check Act)
- c) The Department may grant a waiver based on mitigating circumstances, which may include:
- 1) The age of the individual at which the crime was committed;
 - 2) The circumstances surrounding the crime;
 - 3) The length of time since the conviction;
 - 4) The applicant's or employee's criminal history since the conviction;
 - 5) The applicant's or employee's work history;
 - 6) The applicant's or employee's current employment references;
 - 7) The applicant's or employee's character references;
 - 8) Nurse Aide Registry records; and
 - 9) Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents. (Section 40(b) of the Health Care Worker Background Check Act)

d) An individual shall not be employed in a direct care position from the time that the employer receives the results of a non-fingerprint check containing disqualifying conditions until the time that the individual receives a waiver from the Department. If the individual challenges the results of the non-fingerprint check, the employer may continue to employ the individual in a direct care position if the individual presents convincing evidence to the employer that the non-fingerprint check is invalid. If the individual challenges the results of the non-fingerprint check, his or her identity shall be validated by a fingerprint-based records check in accordance with subsection (k) of this Section. (Section 40(d) of the Health Care Worker Background Check Act)

e) A facility is not obligated to employ or offer permanent employment to an applicant, or to retain an employee who is granted a waiver. (Section 40(f) of the Health Care Worker Background Check Act)

f) A facility may retain the individual in a direct care position if the individual presents clear and convincing evidence to the facility that the non-fingerprint-based criminal records report is invalid and if

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

there is a good faith belief on the part of the employer that the individual did not commit an offense listed in subsections (a)(1) to (27) of this Section, pending positive verification through a fingerprint-based criminal records check. Such evidence may include, but not be limited to:

- 1) certified court records;
 - 2) written verification from the State's Attorney's office that prosecuted the conviction at issue;
 - 3) written verification of employment during the time period during which the crime was committed or during the incarceration period stated in the report;
 - 4) a signed affidavit from the individual concerning the validity of the report; or
 - 5) documentation from a local law enforcement agency that the individual was not convicted of a disqualifying crime.
- s) This Section shall not apply to:

- 1) An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State;
- 2) An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State; or
- 3) A student in a licensed health care field including, but not limited to, a student nurse, a physical therapy student, or a respiratory care student unless he or she is employed by a health care employer in a position with duties involving direct care for residents. (Section 20 of the Health Care Worker Background Check Act)

t) The facility must send a copy of the results of the UCIA criminal history record check to the State Nurse Aide Registry for those individuals who are on the Registry. (Section 30(b) of the Health Care Worker Background Check Act) The facility shall include the individual's Social Security number on the criminal history record check results.

u) The facility shall retain on file for a period of 5 years records of criminal records requests for all employees. The facility shall retain the results of the UCIA criminal history records check and waiver, if appropriate, for the duration of the individual's employment. The files shall be subject to inspection by the Department. A fine of \$500 shall be imposed for failure to maintain these records. (Section 50 of the Health Care Worker Background Check Act)

v) The facility shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.

(Source: Amended at 24 Ill. Reg. 14037, effective AUG 1 2000)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Implementation of Titles XVIII and XIX of the Social Security Act Relating to Skilled Nursing and Intermediate Care Facilities
- 2) Code Citation: 77 Ill. Adm. Code 420
- 3) Section Numbers:

420.1	Amendment
420.2	Repealer
420.10	Repealer
420.20	Repealer
420.30	Repealer
420.40	Repealer
420.50	Repealer
420.60	Repealer
420.61	Repealer
- 4) Statutory Authority: Section 55.27 of the Civil Administrative Code of Illinois [20 ICSC 2310/55.27]
- 5) Effective date of Amendments: August 31, 2000
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain any incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notices of Proposal was Published in Illinois Register: April 14, 2000 - 24 Ill. Reg. 6364
- 10) Has JCAR issued a Statement of Objection to these rulemaking? No
- 11) Difference between proposal and final version: The following changes were made in response to comments received during the first notice or public comment period:
 1. In the Source Note, "Codified at" was added; "p." was added before "227".
 2. In the Source Note, "p." was added before "293" and "171".
 3. In Section 420.1, "Subpart D" was added after "104".
 4. In Section 420.1(a), the comma was changed to "and".
 5. In Sections 420.1(a) and (b), the parentheses were retained.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

The following changes were made in response to comments and suggestions of the JCAR:

In Section 420.1 "104 Subpart D" was changed to "104.Subpart D".

In addition, various typographical, grammatical and form changes were made in response to the comments from JCAR.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will these amendments replace emergency amendments currently in effect? No

14) Are there any other amendments pending on this Part? No

15) Summary and purpose of the Amendments: These rules were originally adopted to implement provisions of the Social Security Act concerning skilled nursing facilities, as well as an agreement between the Department and the Department of Public Aid relating to implementation of Title XIX of the Social Security Act. The rules are being amended because some Sections duplicate more recent procedures that have replaced them. The Department's authority to carry out inspections under Title VIII and Title XIX of the Social Security Act is currently provided in two agreements: "Agreement between the Secretary of Health and Human Services and the State of Illinois to carry out the provisions of Sections 1864, 1874 and related provisions of the Social Security Act, as amended," dated June 24, 1985, which covers Title XVIII; and an agreement entitled "Agreement (DPA-DPH) for Utilization Control, Quality Incentive Program and Medicaid Enrollment," dated July 1, 1986, which covers Title XIX.

16) Information and questions regarding these adopted amendments shall be directed to:

Paul Thompson
Division of Legal Services
Department of Public Health
535 West Jefferson,
Fifth Floor
Springfield, Illinois 62761
217/782-2043
rules@dph.state.il.us

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER 1: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER C: LONG-TERM CARE FACILITIES

PART 420

IMPLEMENTATION OF RULES-AND-REGULATIONS-46-CARRY-OUT-PROVISIONS-OF
TITLES XVIIII AND XIX OF THE SOCIAL SECURITY
ACT RELATING TO SKILLED NURSING AND
INTERMEDIATE CARE FACILITIES

- Section
- 420.1 Authority-- Applicability and Referenced Agreements
- 420.2 Definitions (Repealed)
- 420.10 Participation in Title XVIII (Repealed)
- 420.20 Participation in Title XIX (Repealed)
- 420.30 Participation in Titles XVIIII and XIX (Repealed)
- 420.40 Standards for Participation (Repealed)
- 420.40 Change of Ownership (Repealed)
- 420.50 Denial, Termination or Renewal of Certification of Facilities Participating in Title XIX (Repealed)
- 420.60 Informal Reconsideration (Repealed)
- 420.61

AUTHORITY: Authorized by and implementing Section 55.27 of the Civil Administrative Code of Illinois [20 ILCS 2310/55.27].

SOURCE: Codified at 3 Ill. Reg. 34, p. 227, effective August 25, 1979; amended at 3 Ill. Reg. 50, p. 293, effective November 30, 1979; amended at 4 Ill. Reg. 45, p. 171, effective October 28, 1980; amended at 6 Ill. Reg. 38/5, effective March 29, 1982; amended at 24 Ill. Reg. 14047, effective 14047.

Section 420.1 Authority-- Applicability and Referenced Agreements

The Illinois at these rules-are-promulgated-by-the Department of Public Health designates the Rules for Joint Department Action Against Skilled Nursing Facilities and Intermediate Care Facilities Participating in the Medicaid Program [89 Ill. Adm. Code 104.Subpart D] and related provisions as the applicable rules for this Part under the authority of the following agreements: 7-State-of-Illinois-to-implement:

- a) the Department's agreement with the federal Secretary of Health and Human Services 7-Education-and-Welfare to carry out the provisions of Sections Section 1864 and 1874 and related provisions of the Social Security Act, Title XVIII (42 USC 1395a et seq.) relating to which deal-with skilled nursing facilities; 7 and
- b) the-provisions-of the Department's agreement with the Illinois Department of Public Aid relating to Utilization Control, Quality Incentive Program, and Medicaid Enrollment the-Illinois-State-Medical Assistance-Program, Title XIX (42 USC 1396a through 1396k et seq.). the-Department-pursuant-to-ill-Rev-Stat-1977-ch-1277-par-55.27

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

receives-federal-funds-to-carry-out-the-referenced-agreements- 7 these-rules-apply-to-all-facilities-as-defined-in-Section-429.2(a) which-participate-in-or-make-application-to-participate-in-title-XVIII and/or-title-XIX-of-the-Social-Security-Act-42-usc-1395-1396k

(Source: Amended at 24 Ill. Reg. 14047, effective 14047.)

Section 420.2 Definitions (Repealed)

- a) the-term-Department-means-the-Department-of-Public-Health-State-of-Illinois
- b) the-term-EBPAA-means-the-Department-of-Public-Aid-State-of-Illinois
- c) the-term-Secretary-means-the-Secretary-of-Health-Education-and-Welfare
- d) the-term-Title-XVIII-means-the-Health-Insurance-for-Aged-and-Disabled-Program-42-usc-1395-1395r
- e) the-term-Title-XIX-means-the-Grants-to-States-for-Medical-Assistance-Program-42-usc-1396-1396k
- f) the-term-Nursing-Home-Act-means-the-Nursing-Home-Reform-Act-of-1979 as-amended-ill-Rev-Stat-1979-ch-111-1/2-par-4151-101-et-seq
- g) the-term-Facility-means-any-(a)-private-home-institute-building residence-or-other-place-which-is-subject-to-the-Nursing-Home-Act-(b) any-hospital-licensed-pursuant-to-the-Hospital-Licensing-Act-ill-Rev-Stat-1979-ch-111-1/2-par-142-which-provides-skilled-nursing-or intermediate-nursing-services-or-(c)-any-home-institution-or-other place-operated-by-the-federal-government-or-agency-thereof-or-by-the State-of-Illinois-which-provides-skilled-nursing-or-intermediate-care services
- h) the-term-Minimum-Standards-means-the-Minimum-Standards-Rules-and-Regulations-for-Long-Term-Care-Facilities-promulgated-by-the-Department-pursuant-to-the-Nursing-Homes-Act-and-which-are-currently on-file-with-the-Secretary-of-States-Office

(Source: Repealed at 24 Ill. Reg. 14047, effective 14047.)

Section 420.10 Participation in Title XVIII (Repealed)

- a) Pursuant-to-the-Department's-agreement-with-the-Secretary-Section 1864(a) of the Social Security Act-and-42-EPRA-405-1982-the-Department will-survey-each-facility-participating-in-title-XVIII-at-least annually-and-make-a-recommendation-to-the-Secretary-as-provided-for-in paragraph-(c)-of-this-Section-the-Secretary-will-determine-whether-a provider's-facility-is-eligible-to-participate-in-title-XVIII-Providers-of-skilled-nursing-services-who-wish-to-participate-in-title XVIII-must-if-they-are-subject-to-the-Nursing-Homes-Act-be-licensed-as-a-skilled-nursing-facility-or-if-they-are-subject-to-the-Hospital

DEPARTMENT OF PUBLIC HEALTH

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

NOTICE OF ADOPTED AMENDMENTS

Licensing Act; Ill. Rev. Stat. 1977, ch. 113-1/2, par. 149, et seq., be licensed pursuant thereto and make application to the Department by submitting a completed SSA-1516 form which may be obtained from the Department. The Department will survey each facility and make a recommendation as provided for in paragraph (c) of this Section. The Secretary shall determine whether the provider's facility is eligible to participate in Title XVIII.

c) The Department's recommendation will be made in accordance with the provisions contained in 42 CFR 442.110. The Department will base its recommendation upon the provider's compliance with the standards for participation contained in Section 420.48 of this title.

(Source: Repealed at 24 Ill. Reg. 14047, effective April 1, 2000)

Section 420.20 Participation in Title XIX (Repealed)

a) A provider who wishes to have his facility participate in Title XIX must be subject to the Nursing Home Act (see Section 420.26 of this title) be licensed to operate the facility under that Act or if subject to the Hospital Licensing Act; Ill. Rev. Stat. ch. 113-1/2, par. 149, et seq., be licensed pursuant thereto and make application by submitting to the Department a completed SSA-1516 form which may be obtained from the Department.

b) Pursuant to the Department's agreement with IPBA, Section 1396(f)(9) of the Social Security Act and 42 CFR 442.101, each facility participating in or making application to participate in Title XIX must be certified by the Department as provided for in 42 CFR Part 442 Subpart G. Before IPBA may execute a provider agreement with the facility under 42 CFR 442.12, the Department will certify facilities in accordance with the provisions of 42 CFR Part 442 Subpart G. The Department will base its decision to certify a facility upon the facility's compliance with the standards for participation as set forth in Section 420.48 of these rules. The facility's compliance will be determined by Department surveys of the facility.

d) The Department under 42 CFR 442.110 may not certify a facility for more than twelve (12) months. Each facility certified by the Department must have its certification renewed by the Department before IPBA may execute a new provider agreement with the facility. The requirements for the renewal of certification are the same as those for the certification of a facility which are set forth in paragraph (c) of this Section.

(Source: Repealed at 24 Ill. Reg. 14047, effective April 1, 2000)

Section 420.30 Participation in Titles XVIII and XIX (Repealed)

a) This Section sets forth the rules applicable to providers of both skilled nursing services and intermediate care services who wish to participate in both Titles XVIII and XIX.

b) Providers who wish to participate in Titles XVIII and XIX must be subject to the Nursing Home Care Reform Act of 1979, Ill. Rev. Stat. ch. 113-1/2, par. 143, et seq., be licensed to operate the facility under that Act or if subject to the Hospital Licensing Act; Ill. Rev. Stat. ch. 113-1/2, par. 149, et seq., be licensed pursuant thereto and make application for participation in both Titles XVIII and XIX by submitting to the Department a completed SSA-1516 form which may be obtained from the Department.

c) Two separate certification determinations are required for participation in both Titles XVIII and XIX, one for the skilled nursing services and one for the intermediate care services.

d) Certification for skilled nursing services is obtained in accordance with Section 420.10(b) and (c) of this title.

e) Compliance with the requirements for certifying the intermediate care services is made by the Department as provided for in Section 420.20(c) and (d) of this title.

(Source: Repealed at 24 Ill. Reg. 14047, effective April 1, 2000)

Section 420.40 Standards for Participation (Repealed)

a) The standards for participation in Title XVIII are as follows:

- 1) the provider's facility must meet the Department's Minimum Standards for skilled nursing facilities;
- 2) the provider's facility must meet the federal definitions of a skilled nursing facility contained in 42 USC 1395x(f) and
- 3) the federal conditions of participation set forth in 42 CFR Part 405 Subpart K.

b) The standards for participation in Title XIX are as follows:

- 1) the provider's facility must meet the Department's Minimum Standards for the category of service the facility is licensed to provide;
- 2) if the provider's facility participates or applies to participate in Title XIX as a skilled nursing facility, it must meet:
 - A) the federal definition of a skilled nursing facility contained in 42 CFR 442.202(a) and (b);
 - B) the federal conditions of participation set forth in 42 CFR Part 405 Subpart K;
 otherwise the facility must meet the federal standards for the category of services provided by the facility which are set forth in 42 CFR Part 442 Subparts B, F, and G;
- c) the standards for participation in Title XIX for facilities licensed for more than one category of service are the applicable standards contained in paragraph (b) of this Section for each category of

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

service that is to participate in Title XIX.

a. ~~60WMBN~~ Pursuant to the Nursing Home Act, the Department licenses facilities based on the services provided, the classifications of facilities licensed by the Department are: skilled nursing facilities, intermediate care facilities, intermediate care facilities for developmentally disabled, community living facilities, and sheltered care facilities.

(Source: Repealed at 24 Ill. Reg. 14 0 4 7, effective 3/6/11/2000)

Section 420.50 Change of Ownership (Repealed)

This Section shall apply to facilities which are certified by the Department for participation in Title XIX and which changes ownership. For purposes of this Section a change of ownership is that described in 42 CFR 489.10. When a facility changes ownership:

- a) the provisions of 42 CFR 442.14 shall apply
- b) the provider shall inform the Department of the change of ownership.
- c) the Department shall inform the provider who acquires the facility of any existing plan of correction upon which certification was based and the expiration date of the facility's current certification.

(Source: Repealed at 24 Ill. Reg. 14 0 4 7, effective 3/6/11/2000)

Section 420.60 Denial, Termination or Nonrenewal of Certification of Facilities Participating in Title XIX (Repealed)

- a) If the Department takes action to deny, terminate, or not renew a facility's certification, the facility shall be offered the opportunity for an administrative hearing as provided for in the rules for Joint Department Actions Against Skilled Nursing Facilities and Intermediate Care Facilities Participating in the Medicaid Program, which are promulgated jointly by IDPH and IDPA and currently on file with the Secretary of State's Office. Hearings initiated prior to the effective date of this rule shall be conducted by the Department under the requirements set forth in 42 CFR 431.153. The requirements for contested cases set forth in the Illinois Administrative Procedure Act (31 Rev. Stat. 1991, ch. 127) Part 1601.1 et seq. and the Department's Rules of Practice and Procedure in Administrative Proceedings which are currently on file with the Secretary of State's Office (Title VII Part 186).

- b) If the opportunity for an evidentiary hearing under the requirements set forth in paragraph (a) of this Section is provided after the effective date of a denial, termination, or nonrenewal of the facility's certification, the Department will offer the facility an informal reconsideration as provided for in Section 420.61 of these

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

Rules end 42 CFR 431.154.

- c) Once a facility's certification has been terminated or denied prior to re-entry, the facility must comply with Section 489.40 and show compliance on two consecutive surveys, approximately 60 days apart from the date of the first re-entry survey. The earliest date which the facility's recertification may begin is sixty (60) days from the date of the facility's first survey to establish eligibility.

(Source: Repealed at 24 Ill. Reg. 14 0 4 7, effective 3/6/11/2000)

Section 420.61 Informal Reconsideration (Repealed)

- a) An informal reconsideration of the Department's decision to deny, terminate or not renew a facility's certification shall be made by the Department in accordance with the following rules:

- b) The facility shall be notified in writing of the Department's decision to deny, terminate or not renew certification. The notification shall include:
 - 1) a reference to the rules involved;
 - 2) a short and plain statement of the basis upon which the Department's decision is made;
 - 3) a statement as to the time and place that the provider may submit a written response refuting the basis of the Department's decision; the date set for receipt of the provider's response shall be at least ten (10) days from the date of receipt of this notice.

- c) Failure of the provider to submit a written response as provided for in paragraph (b) of this Section shall constitute a waiver of the provider's right to such opportunity.
- d) Subsequent to receiving and reviewing the provider's response under paragraph b(3) of this Section or upon waiver of the opportunity to submit such a response the Department shall send the provider a written affirmation or reversal of the denial, termination or nonrenewal. If the Department's decision is to deny, terminate or not renew, the facility's certification, the provisions of Section 489.60(a) shall apply.

(Source: Repealed at 24 Ill. Reg. 14 0 4 7, effective 3/6/11/2000)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Subacute Care Hospital Demonstration Program Code
- 2) Code Citation: 77 Ill. Adm. Code 270
- 3) Section Numbers: Adopted Action:
270.2250 New Section
- 4) Statutory Authority: Alternative Health Care Delivery Act [210 ILCS 3]
- 5) Effective date of amendment: August 31, 2000
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain any incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notices of Proposal was Published in Illinois Register: March 24, 2000 - 24 Ill. Reg. 4918
- 10) Has JCAR issued a Statement of Objection to this amendment? No
- 11) Difference between proposal and final version: The following changes were made in response to comments received during the first notice or public comment period:
 1. In subsection 270.2250(f), "Beginning January 1, 1996, when" was deleted and "then" was added.
 2. Subsection 270.2250(t) was deleted.
 3. Subsection 270.2250(u) was relettered to "t"; subsection 270.2250(v) was relettered to "u"; subsection 270.2250(w) was relettered to "v".
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No changes were requested.
- 13) Will these amendments replace emergency amendments currently in effect? No
- 14) Are there any other amendments pending on this Part? No
- 15) Summary and purpose of the amendments: Public Act 91-598 (effective January 1, 2000) amended the Health Care Worker Background Check Act [225 ILCS 46] to include "locations licensed under the Alternative Health Care Delivery Act" in the definition of "health care employer." The Health Care Worker Background Check Act requires non-licensed direct care workers

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

to have an Illinois State Police criminal history records check as a condition of employment by a health care employer.

A new Section implementing health care worker background check requirements is being added to the rules. Procedures for initiating background checks are set forth. The amendments list crimes for which a conviction will disqualify an individual from employment. Procedures for obtaining a waiver from the Department, which will allow the individual to work, are included. Guidelines for determining which employees provide "direct care" are included. Notification and record-keeping procedures are specified. Exceptions to the background and record requirements are stated. In addition, the amendments include provisions governing individuals who have convictions in other states; individuals who contest the results of the non-fingerprint-based records check; and employers who have actual knowledge of an employee's conviction subsequent to completion of the non-fingerprint check.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Paul Thompson, Division of Legal Services
Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
217/786-2043
rules@dp.h.state.il.us

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER 1: DEPARTMENT OF PUBLIC HEALTH

SUBCHAPTER b: HOSPITALS AND AMBULATORY CARE FACILITIES

PART 270

SUBACUTE CARE HOSPITAL DEMONSTRATION PROGRAM CODE

- Section
- 270.1000 Definitions
- 270.1050 Statutes and Rules Referenced
- 270.1100 Demonstration Program Elements
- 270.1200 Application for and Issuance of a License to Operate a Subacute Care Hospital Model
- 270.1300 Obligations and Privileges of Subacute Care Hospital Models
- 270.1400 Inspections and Investigations
- 270.1500 Notice of Violation and Plan of Correction
- 270.1600 Adverse Licensure Action
- 270.1700 Admission Practices
- 270.1800 Patient Assessment
- 270.1900 Comprehensive Care Plan
- 270.2000 Patient's Rights
- 270.2100 Patient Care Services
- 270.2200 Patient Care Services
- 270.2250 Health Care Worker Background Check
- 270.2300 Quality Assessment and Improvement

AUTHORITY: Implementing and authorized by the Alternative Health Care Delivery Act [210 ILCS 3].

SOURCE: Adopted at 18 Ill. Reg. 2424, effective January 28, 1994; amended at 19 Ill. Reg. 6315, effective May 1, 1995; amended at 22 Ill. Reg. 2207, effective January 15, 1998; amended at 24 Ill. Reg. **14055**, effective AUG 8 1998.

Section 270.2250 Health Care Worker Background Check

- a) The facility shall not knowingly hire any individual in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit one or more of the following offenses (Section 25(a) of the Health Care Worker Background Check Act [225 ILCS 46/25]):
- 1) Solicitation of murder, solicitation of murder for hire (Sections 8-1.1 and 8-1.2 of the Criminal Code of 1961 [720 ILCS 5/8-1.1 and 8-1.2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 8-1.1 and 8-1.2));
- 2) Murder, homicide, manslaughter or concealment of a homicidal death (Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3 of the Criminal Code of 1961 [720 ILCS 5/9-1, 9-1.2, 9-2,

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 9-2.1, 9-3, 9-3.1, 9-3.2 and 9-3.3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3); Ill. Rev. Stat. 1985, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. 3, 236, 359, 360, 361, 362, 363, 364, 364a, 365, 370, 373, 373a, 417, and 474);
- 3) Kidnapping or child abduction (Sections 10-1, 10-2, 10-5 and 10-7 of the Criminal Code of 1961 [720 ILCS 5/10-1, 10-2, 10-5, and 10-7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-1, 10-2, 10-5, and 10-7); Ill. Rev. Stat. 1985, ch. 38, par. 10-6; Ill. Rev. Stat. 1961, ch. 38, pars. 384 to 386));
- 4) Unlawful restraint or forcible detention (Sections 10-3, 10-3.1, and 10-4 of the Criminal Code of 1961 [720 ILCS 5/10-3, 10-3.1, and 10-4] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-3, 10-3.1, and 10-4); Ill. Rev. Stat. 1961, ch. 38, pars. 252, 252.1, and 252.4));
- 5) Indecent solicitation of a child, sexual exploitation of a child, exploitation of a child, child pornography (Sections 11-6, 11-9.1, 11-9.2, and 11-20.1 of the Criminal Code of 1961 [720 ILCS 5/11-6, 11-9.1, 11-9.2, and 11-20.1] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 11-6, 11-9.2, and 11-20.1); Ill. Rev. Stat. 1985, ch. 38, par. 11-20a; Ill. Rev. Stat. 1961, ch. 38, pars. 103 and 104);
- 6) Headlump, sexual battery, tampering with food, drugs or chemicals, infliction of great bodily harm (Sections 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7 of the Criminal Code of 1961 [720 ILCS 5/12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, and 12-4.7); Ill. Rev. Stat. 1985, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. 55, 56, and 56a to 60b);
- 7) Aggravated stalking (Section 12-7.4 of the Criminal Code of 1961 [720 ILCS 5/12-7.4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-7.4));
- 8) Home invasion (Section 12-11 of the Criminal Code of 1961 [720 ILCS 5/12-11] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-11));
- 9) Sexual assault or sexual abuse (Sections 12-13, 12-14, 12-15, and 12-16 of the Criminal Code of 1961 [720 ILCS 5/12-13, 12-14, 12-15, and 12-16] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 11-1, 11-2, 11-3, 11-4, 11-5, 12-13, 12-14, 12-15, and 12-16); Ill. Rev. Stat. 1985, ch. 38, pars. 11-1, 11-4, and 11-4.1; Ill. Rev. Stat. 1961, ch. 38, pars. 109, 141, 142, 490, and 491);
- 10) Abuse or gross neglect of a long-term care facility resident (Section 12-19 of the Criminal Code of 1961 [720 ILCS 5/12-19] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-19)).

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED AMENDMENTS

- 11) Criminal neglect of an elderly or disabled person (Section 12-21 of the Criminal Code of 1961 [720 ILCS 5/12-21] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-21))
- 12) Endangering the life or health of a child (Section 12-21.6 of the Criminal Code of 1961 [720 ILCS 5/12-21.6] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354; Ill. Rev. Stat. 1961, ch. 38, par. 95))
- 13) Ritual mutilation, ritualized abuse of a child (Sections 12-32 and 12-33 of the Criminal Code of 1961 [720 ILCS 5/12-32 and 12-33] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-32 and 12-33))
- 14) Theft, transfer theft (Sections 16-1 and 16A-3 of the Criminal Code of 1961 [720 ILCS 5/16-1 and 16A-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 16-1 and 16A-3; Ill. Rev. Stat. 1961, ch. 38, pars. 62, 207 to 218, 240 to 244, 246, 253, 254.1, 258, 262, 262A, 273, 290, 291, 301A, 354, 387 to 388B, 389, 393 to 400, 404A to 404C, 438, 492 to 496))
- 15) Financial exploitation of an elderly or disabled person (Section 16-1.3 of the Criminal Code of 1961 [720 ILCS 5/16-1.3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 16-1.3))
- 16) Forgery (Section 17-3 of the Criminal Code of 1961 [720 ILCS 5/17-3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 17-3; Ill. Rev. Stat. 1961, ch. 38, pars. 151 and 277 to 286))
- 17) Robbery, armed robbery (Sections 18-1 and 18-2 of the Criminal Code of 1961 [720 ILCS 5/18-1 and 18-2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 18-1 and 18-2))
- 18) Vehicular hijacking, aggravated vehicular hijacking, aggravated robbery (Sections 18-3, 18-4, and 18-5 of the Criminal Code of 1961 [720 ILCS 5/18-3, 18-4, and 18-5])
- 19) Burglary, residential burglary (Sections 19-1 and 19-3 of the Criminal Code of 1961 [720 ILCS 5/19-1 and 19-3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 19-1 and 19-3; Ill. Rev. Stat. 1961, ch. 38, pars. 84 to 86, 88, and 501))
- 20) Criminal trespass to a residence (Section 19-4 of the Criminal Code of 1961 [720 ILCS 5/19-4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 19-4))
- 21) Arson (Sections 20-1 and 20-1.1 of the Criminal Code of 1961 [720 ILCS 5/20-1 and 20-1.1] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 20-1 and 20-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. 48 to 53 and 236 to 238))
- 22) Unlawful use of weapons, aggravated discharge of a firearm, or reckless discharge of a firearm (Sections 24-1, 24-1.2, and 24-1.5 of the Criminal Code of 1961 [720 ILCS 5/24-1, 24-1.2, and 24-1.5] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 24-1, 24-1.2, 111. Rev. Stat. 1961, ch. 38, pars. 152, 152A, 155, 155A to 158B, 414A to 414C, 414E, and 414G))
- 23) Armed violence - elements of the offense (Section 33A-2 of the Criminal Code of 1961 [720 ILCS 5/33A-2] (formerly Ill. Rev.

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF ADOPTED AMENDMENTS

- 24) Those 1991, ch. 38, par. 33A-2(1))
- 24) Section 4 of the Wombs to Children Act (720 ILCS 150/4) (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354))
- 25) Delivery to children (Section 53 of the Criminal Jurisprudence Act [720 ILCS 115/53] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 236B))
- 26) Manufacture, delivery or trafficking of cannabis, delivery of cannabis on school grounds, or delivery to person under 18; violation by person under 18 (Sections 5, 5.1, 5.2, 7, and 9 of the Cannabis Control Act [720 ILCS 550/5, 5.1, 5.2, 7, and 9] (formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 705, 705.1, 705.2, 707, and 709))
- 27) Manufacture, delivery or trafficking of controlled substances (Sections 40, 40.1, 404, 405, 405.1, 407 and 407.1 of the Illinois Controlled Substance Act [720 ILCS 570/401, 401.1, 404, 405, 405.1, 407, 407.1] (formerly Ill. Rev. Stat. 1991, ch. 56 1/2, pars. 1401, 1401.1, 1404, 1405, 1405.1, 1407, and 1407.1))
- b) The facility shall not knowingly employ or retain any individual in a position with duties involving direct care for residents if that person has been convicted of committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) of this Section unless the applicant, employee or employer obtains a waiver pursuant to subsections (m) and (o) of this Section. (Section 25(a) of the Health Care Worker Background Check Act)
- c) A facility shall not hire, employ, or retain any individual in a position with duties involving direct care of residents if the facility becomes aware that the individual has been convicted in another state of committing or attempting to commit an offense that has the same or similar elements as an offense listed in subsections (a)(1) to (27) of this Section, as verified by court records. Records from a State agency or an FBI criminal history record check shall not be construed to mean that a facility has an obligation to conduct a criminal history records check in other states in which an employee has resided. (Section 25(b) of the Act)
- d) For the purpose of this Section:
- 1) "Applicant" means an individual seeking employment with a facility who has received a bona fide conditional offer of employment.
- 2) "Conditional offer of employment" means a bona fide offer of employment by a facility to an applicant, which is contingent upon the receipt of a report from the Department of State Police indicating that the applicant does not have a record of conviction of any of the criminal offenses listed in subsections (a)(1) to (27) of this Section.
- 3) "Direct care" means the provision of nursing care or assistance with feeding, dressing, movement, bathing, or other personal needs.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

4) *"Initiate" means the obtaining of the authorization for a record check from a student, applicant, or employee. (Section 15 of the Health Care Worker Background Check Act)*

e) *For purposes of the Health Care Worker Background Check Act, the facility shall establish a policy defining which employees provide direct care. In making this determination the facility shall consider the following:*

- 1) *the employee's assigned job responsibilities as set forth in the employee's job description;*
- 2) *whether the employee is required to or has the opportunity to be alone with residents, with the exception of infrequent or unusual occasions; and*
- 3) *whether the employee's regular responsibilities include physical contact with residents, for example to provide therapy or to draw blood.*

f) *When the facility makes a conditional offer of employment to an applicant who is not exempt under subsection (e) of this Section, for a position with duties that involve direct care for residents, the employer shall inquire of the Nurse Aide Registry as to the status of the applicant's Uniform Conviction Information Act (UCIA) criminal history record check. If a UCIA criminal history record check has not been conducted within the last 12 months, the facility must initiate or have initiated on its behalf a UCIA criminal history record check for that applicant. (Section 30(c) of the Health Care Worker Background Check Act)*

g) *The facility shall transmit all necessary information and fees to the Illinois State Police within 10 working days after receipt of the authorization. (Section 15 of the Health Care Worker Background Check Act)*

h) *The facility may accept an authentic UCIA criminal history record check that has been conducted within the last 12 months rather than initiating a check as required in subsection (f) of this Section. The request for a UCIA criminal history record check shall be made, as prescribed by the Department of State Police. The applicant or employee must be notified of the following whenever a non-fingerprint-based UCIA criminal history record check is made:*

- 1) *That the facility shall request or have requested on its behalf a non-fingerprint-based UCIA criminal history record check pursuant to the Health Care Worker Background Check Act.*
- 2) *That the applicant or employee has a right to obtain a copy of the criminal records report from the facility, challenge the accuracy and completeness of the report, and request a waiver in accordance with subsection (m) of this Section.*
- 3) *That the applicant, if hired conditionally, may be terminated if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the applicant's identity is validated and it is determined*

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

that the applicant or employee does not have a disqualifying criminal history record based on a fingerprint-based records check pursuant to subsection (k) of this Section.

4) *That the applicant, if not hired conditionally, shall not be hired if the non-fingerprint-based criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the applicant's record is cleared based on a fingerprint-based records check pursuant to subsection (k) of this Section.*

5) *That the employee may be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in subsections (a)(1) to (27) of this Section unless the employee's record is cleared based on a fingerprint-based records check pursuant to subsection (k) of this Section. (Section 30(e) and (f) of the Health Care Worker Background Check Act)*

1) *A facility may conditionally employ an applicant to provide direct care for up to three months pending the results of a UCIA criminal history record check. (Section 30(g) of the Health Care Worker Background Check Act)*

k) *An applicant or employee whose non-fingerprint-based UCIA criminal history record check indicates a conviction for committing or attempting to commit one or more of the offenses listed in subsections (a)(1) to (27) of this Section may request that the facility or its designee commence a fingerprint-based UCIA criminal records check by submitting any necessary fees and information in a form and manner prescribed by the Department of State Police. (Section 35 of the Health Care Worker Background Check Act)*

1) *A facility having actual knowledge from a source other than a non-fingerprint check that an employee has been convicted of committing or attempting to commit one of the offenses enumerated in Section 25 of the Act must initiate a fingerprint-based background check within 10 working days after acquiring that knowledge. The facility may continue to employ that individual in a direct care position, may reassign that individual to a non-direct care position, or may suspend the individual until the results of the fingerprint-based background check are received. (Section 30(d) of the Health Care Worker Background Check Act)*

m) *An applicant, employee or employer may request a waiver to subsection (a)(1), (b) or (c) of this Section by submitting the following to the Department within five working days after the receipt of the criminal records report:*

- 1) *A completed fingerprint-based UCIA criminal records check form (Section 40(a) of the Health Care Worker Background Check Act) (which the Department will forward to the Department of State Police); and*
- 2) *A certified check, money order or facility check made payable to*

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

the Department of State Police for the amount of money necessary to initiate a fingerprint-based UCIA criminal records check.

- n) The Department may accept the results of the fingerprint-based criminal records check instead of the items required by subsections (m)(1) and (2) above. (Section 40(a-5) of the Health Care Worker Background Check Act)

- o) The Department may grant a waiver based on mitigating circumstances, which may include:

- 1) The age of the individual at which the crime was committed;
- 2) The circumstances surrounding the crime;
- 3) The length of time since the conviction;
- 4) The applicant's or employee's criminal history since the conviction;
- 5) The applicant's or employee's work history;
- 6) The applicant's or employee's current employment references;
- 7) The applicant's or employee's character references;
- 8) Nurse Aide Registry records; and

- 9) Other evidence demonstrating the ability of the applicant or employee to perform the employment responsibilities competently and evidence that the applicant or employee does not pose a threat to the health or safety of residents. (Section 40(b) of the Health Care Worker Background Check Act)

- p) An individual shall not be employed in a direct care position from the time that the employer receives the results of a non-fingerprint check containing disqualifying conditions until the time that the individual receives a waiver from the Department. If the individual challenges the results of the non-fingerprint check, the employer may continue to employ the individual in a direct care position if the individual presents convincing evidence to the employer that the non-fingerprint check is invalid. If the individual challenges the results of the non-fingerprint check, his or her identity shall be validated by a fingerprint-based records check in accordance with subsection (k) of this Section. (Section 40(d) of the Health Care Worker Background Check Act)

- q) A facility is not obligated to employ or offer permanent employment to an applicant, or to retain an employee who is granted a waiver. (Section 40(f) of the Health Care Worker Background Check Act)

- r) A facility may retain the individual in a direct care position if the individual presents clear and convincing evidence to the facility that the non-fingerprint-based criminal records report is invalid and if there is a good faith belief on the part of the employer that the individual did not commit an offense listed in subsections (a)(1) to (27) of this Section, pending positive verification through a fingerprint-based criminal records check. Such evidence may include, but not be limited to:

- 1) Certified court records;
- 2) Written verification from the State's Attorney's office that prosecuted the conviction at issue;

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED AMENDMENTS

- 3) Written verification of employment during the time period during which the crime was committed or during the incarceration period stated in the report;

- 4) A signed affidavit from the individual concerning the validity of the report; or

- 5) Documentation from a local law enforcement agency that the individual was not convicted of a disqualifying crime.

- s) This Section shall not apply to:

- 1) An individual who is licensed by the Department of Professional Regulation or the Department of Public Health under another law of this State;

- 2) An individual employed or retained by a health care employer for whom a criminal background check is required by another law of this State; or

- 3) A student in a licensed health care field including, but not limited to, a student nurse, a physical therapy student, or a respiratory care student unless he or she is employed by a health care employer in a position with duties involving direct care for residents. (Section 20 of the Health Care Worker Background Check Act)

- t) The facility must send a copy of the results of the UCIA criminal history record check to the State Nurse Aide Registry for those individuals who are on the Registry. (Section 30(b) of the Health Care Worker Background Check Act) The facility shall include the individual's Social Security number on the criminal history record check results.

- u) The facility shall retain on file for a period of 5 years records of criminal records requests for all employees. The facility shall retain the results of the UCIA criminal history records check and waiver, if appropriate, for the duration of the individual's employment. The files shall be subject to inspection by the Department. A fine of \$500 shall be imposed for failure to maintain these records. (Section 30 of the Health Care Worker Background Check Act)

- v) The facility shall maintain a copy of the employee's criminal history record check results and waiver, if applicable, in the personnel file or other secure location accessible to the Department.

(Source: Added at 24 Ill. Reg. 14 C 5, effective AUG 31 2000)

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Affordable Housing Program
- 2) Code Citation: 47 Ill. Adm. Code 360
- 3) Section Numbers: Emergency Action:
360.604 Amendment
- 4) Statutory Authority: Sections 7.24(g), 7.19 and 7.25 of the Illinois Housing Development Act (20 ILCS 3805/7.24(g), 7.19 and 7.25).
- 5) Effective Date of Amendment: September 1, 2000
- 6) If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire: N/A
- 7) Date Filed with the Index Department: August 11, 2000
- 8) A copy of the emergency amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: The existing rule does not comply with the Department of Housing and Urban Development's requirements.
- 10) A Complete Description of the Subjects and Issues Involved: This Part changes the existing rule to comply with the Department of Housing and Urban Development's requirements.
- 11) Are there any proposed amendments to this Part Pending? No
- 12) Statement of Statewide Policy Objectives: This emergency amendment does not create, expand or modify a state mandate.
- 13) Information and questions regarding these amendments shall be directed to:
Lori Silver, Esq.
401 N. Michigan Ave., Suite 900
Chicago, Illinois 60611
312/836-7341

The full text of the Emergency Amendments begins on the next page:

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF EMERGENCY AMENDMENTS

TITLE 47: HOUSING AND COMMUNITY DEVELOPMENT
CHAPTER II: ILLINOIS HOUSING DEVELOPMENT AUTHORITY

PART 360

AFFORDABLE HOUSING PROGRAM

SUBPART A: GENERAL RULES

Section
360.101 Authority
360.102 Purpose and Objectives
360.103 Definitions
360.104 Borrowing by the Authority
360.105 Compliance with Federal Law
360.106 Standards - Criteria
360.107 Forms and Procedures for the Program
360.108 Fees and Charges of the Authority
360.109 Waiver (Repealed)
360.110 Amendment
360.111 Severability
360.112 Gender and Number
360.113 Titles and Captions
360.114 Calendar Days

SUBPART B: USES

Section
360.201 Recipients
360.202 Beneficiaries
360.203 Permitted Uses of Trust Fund Monies
360.204 Market Rate Developments

SUBPART C: APPLICATION

Section
360.301 Application
360.302 Form
360.303 Review
360.304 Initial Contact
360.305 Site and Market Study/Rental Analysis
360.306 Feasibility Determination (Repealed)
360.307 Staff Recommendation
360.308 Advisory Commission
360.309 Authority Determination
360.310 Conditional Commitment

SUBPART D: NOTICE

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF EMERGENCY AMENDMENTS

Section

360.401

Notification by Authority

360.402

Comments and Responses

SUBPART E: RECIPIENT

Section

360.501

Eligible Applicants (Repealed)

360.502

Land Trusts

360.503

Books and Records

360.504

Audits

360.505

Annual Financial Report

360.506

Furnishing Information

360.507

Standards for Approval of Conveyance

SUBPART F: LOANS AND GRANTS

Section

360.601

Maximum Loan Amount and Priority

360.602

Maximum Grant Amount

360.603

Increase Above Maximum Loan or Grant Amount

360.604

Amortization

EMERGENCY

360.605

Recapture of Assistance

360.606

Prepayment of Loan

SUBPART G: CONSTRUCTION

Section

360.701

Design and Construction Standards

SUBPART H: MARKETING AND MANAGEMENT

Section

360.801

Marketing and Management

360.802

Marketing and Management Plans

360.803

Maintenance

360.804

Cost of Service

SUBPART I: TENANTS AND OCCUPANCY

Section

360.901

Displacement

360.902

Relocation Plan

360.903

Tenant Selection Plan and Participant Selection Plan

360.904

Income and Housing Expense Limits

360.905

Non-Discrimination

ILLINOIS HOUSING DEVELOPMENT AUTHORITY

NOTICE OF EMERGENCY AMENDMENTS

SUBPART J: ENERGY EFFICIENCY

Section

360.1001

Standards

SUBPART K: CERTIFICATIONS

Section

360.1101

Environmental Assessment

360.1102

Other Laws

AUTHORITY: Implementing Sections 4 and 7(e) of the Illinois Affordable Housing Act [310 ILCS 65/4 and 7(e)] and authorized by Sections 7.19 and 7.25 of the Illinois Housing Development Act [20 ILCS 3805/7.19 and 7.25].

SOURCE: Emergency rules adopted at 14 Ill. Reg. 2094, effective January 22, 1990, for a maximum of 150 days; adopted at 14 Ill. Reg. 9117, effective May 24, 1990; amended at 15 Ill. Reg. 17088, effective November 19, 1991; emergency amendment at 18 Ill. Reg. 2124, effective January 12, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 8663, effective May 25, 1994; amended at 22 Ill. Reg. 4321, effective February 4, 1998; amended at 23 Ill. Reg. 3692, effective March 15, 1999; amended at 23 Ill. Reg. 8819, effective July 26, 1999; emergency amendment at 24 Ill. Reg. 14065, effective September 1, 2000, for a maximum of 150 days.

SUBPART F: LOANS AND GRANTS

Section 360.604 Amortization

EMERGENCY

The maximum amortization period term of a Loan to be made by the Authority under this Program shall not exceed 40 years and may be shorter at the sole discretion of the Authority.

(Source: Amended by emergency rulemaking at 24 Ill. Reg. 14065, effective September 1, 2000, for a maximum of 150 days)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EMERGENCY AMENDMENT

- 1) **Heading of the Part:** Dog Training on Department-Owned or -Managed Sites
- 2) **Code Citation:** 17 Ill. Adm. Code 950
- 3) **Section Numbers:**
950.40
Emergency Action:
Amendment
- 4) **Statutory Authority:** Implementing and authorized by Sections 1.4, 2.30, 2.34 and 3.5 of the Wildlife Code [520 ILCS 5/1.4, 2.30, 2.34 and 3.5].
- 5) **Effective Date of Emergency Amendment:** September 1, 2000
- 6) **If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire:** This emergency amendment will remain in effect for the 150-day period.
- 7) **Date filed with the Index Department:** August 30, 2000
- 8) **A copy of the emergency amendment, including any material incorporated by reference, is on file in the Department of Natural Resources' principal office and is available for public inspection.**

9) **Reason for Emergency:** The Jim Edgar Panther Creek State Fish and Wildlife Area is a relatively new addition to sites owned by the Illinois Department of Natural Resources. Infrastructure improvements, including roads, parking areas with trash receptacles and outdoor toilets, pond and lake developments, and headquarter improvements, have reached a completion stage where the Department can consider augmenting programs at the site beyond the basic programs that have been provided to date. The agency has been unable to predict when the stage of completion of infrastructure improvements would allow the expansion of site programs because these improvements have relied on construction firms, in some cases other State agencies, and the vagaries of the weather. With the infrastructure improvements recently reaching a stage of completion where additional programs can be supported, the Department desires to implement sporting dog training with the fall 2000 training season.

Two other aspects of the agency's efforts have also recently reached a stage in development where they can support additional programs. Habitat improvements typically take several years to develop while wildlife populations lag behind the habitat improvements by one or more years. Many of the habitat improvements have developed where they now support strong upland wildlife populations. The populations of bobwhite quail, ring-necked pheasant, and cottontail rabbits have improved substantially. Bobwhite quail census information from June of this year indicates that the population has improved 33% throughout the quail range in the State. This population improvement for bobwhite quail has also been reflected in observations by site personnel at Jim Edgar Panther Creek. With stronger

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EMERGENCY AMENDMENT

upland wildlife populations additional programs that utilize these populations can be provided. Where upland wildlife populations are concerned, it is also important to provide additional use opportunities when the populations are strongest. That opportunity exists beginning with the late summer/early fall period when sporting dog training opportunities are most sought.

- 10) **A Complete Description of the Subjects and Issues Involved:** Public expectations for expanded recreational opportunities at Jim Edgar Panther Creek State Fish and Wildlife Area can be realized in part with the addition of sporting dog training this year. The site will provide sporting dog training opportunities to residents of the west central region of Illinois, a region with particularly strong interest in training opportunities for the pointing, retrieving, and coon hound breeds. Sportsmen and women will find that the Jim Edgar Panther Creek State Fish and Wildlife Area now has all the attributes necessary to provide sporting dog training opportunities of the highest quality.

- 11) **Are there any emergency amendments to this Part pending?** No
- 12) **Statement of Statewide Policy Objectives:** These rules do not create or expand a state mandate.

- 13) **Information and questions regarding this amendment shall be directed to:**

Jack Price
Department of Natural Resources
524 S. Second Street, Room 485
Springfield IL 62701-1787
217/782-1809

The full text of the emergency amendment begins on the next page:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EMERGENCY AMENDMENT

TITLE 17: CONSERVATION
CHAPTER 1: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFE

PART 950
DOG TRAINING ON DEPARTMENT-OWNED OR -MANAGED SITES

Section
950.10 Statewide Regulations
950.20 Definitions
950.30 Permit Requirements
950.40 Dog Training Seasons and Regulations
EMERGENCY
950.50 Dog Training Regulations (Repealed)
950.60 Penalties, Future Rights/Appeal Procedures

AUTHORITY: Implementing and authorized by Sections 1.4, 2.30, 2.34 and 3.5 of the Wildlife Code [520 ILCS 5/1.4, 2.30, 2.34 and 3.5].

SOURCE: Amendment filed December 21, 1977; effective December 31, 1977; codified at 5 Ill. Reg. 10652; Part repealed, new Part adopted at 12 Ill. Reg. 1808, effective December 31, 1987; amended at 14 Ill. Reg. 13524, effective August 10, 1990; amended at 15 Ill. Reg. 11581, effective August 2, 1991; amended at 16 Ill. Reg. 11034, effective June 30, 1992; amended at 17 Ill. Reg. 13447, effective July 30, 1993; amended at 19 Ill. Reg. 11780, effective August 3, 1995; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 23 Ill. Reg. 1038, effective July 7, 1999; emergency amendment at 24 Ill. Reg. 1400, effective September 1, 2000, for a maximum of 150 days.

Section 950.40 Dog Training Seasons and Regulations
EMERGENCY

- a) Dog training is prohibited on Department sites except in designated areas.
- b) The use of horses for dog training purposes is prohibited except at the sites designated by (1).
- c) Only handguns and shotguns with blank cartridges shall be used on Department sites except shotguns with shot shells may be used only for shoot-to-retrieve training using domestic pigeons and/or captive-reared ring-necked pheasants, bobwhite quail, chukar partridge, and mallard ducks at the site(s) designated by (2).
 - 1) Only shot shells with a shot size of No. 6 lead, tungsten-iron, tungsten-polymer, tungsten-matrix, No. 5 bismuth, No. 4 steel or tin, or smaller shall be used for shoot-to-retrieve dog training.
 - 2) Individuals participating in shoot-to-retrieve dog training are required to wear a cap and upper outer garment of solid and vivid blue orange of at least 400 square inches.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EMERGENCY AMENDMENT

- 3) Individuals participating in shoot-to-retrieve dog training are required to wear a back patch issued at the site headquarters on the outside of the upper outer blouse orange garment.
- d) Dog training at the following sites will be open from September 1 - March 31, except closed during site upland game season; additional exceptions in parenthesis:
 - Carlyle Lake Lands and Waters
 - Clinton Lake State Recreation Area
 - Edward R. Madigan State Park
 - Eldon Hazlet State Park (January 1 - March 31, except north of Allen Branch open per statewide regulations)
 - Hamilton County Conservation Area
 - Hidden Springs State Forest
 - Horseshoe Lake State Park
 - Iroquois County Wildlife Management Area
 - Jim Edgar Panther Creek State Fish and Wildlife Area (water dog training only is open all year)
 - Kankakee River State Park
 - Kaskaskia River State Fish and Wildlife Area (water dog training only is open all year) (1)
 - Kickapoo State Park (1)
 - Lake Shelbyville - Eagle Creek State Park
 - Lake Shelbyville - Eagle Creek Wildlife Management Area
 - Lake Shelbyville - Kaskaskia and West Okaw Wildlife Management Area
 - Marseilles Wildlife Area (closed Friday, Saturday, and Sunday during September, October and March)
 - Middle Fork Fish and Wildlife Management Area (1)
 - Peabody River King State Fish and Wildlife Area (West and South Subunits only; water dog training only is open all year)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF EMERGENCY AMENDMENT

Saline County Conservation Area

San Parr State Park

Sand Ridge State Forest (during the Controlled Pheasant season, training is permitted on Mondays and Tuesdays) (1)

Sangchris Lake State Park (water dog training is open all year)

Shabbona Lake State Park (closed during archery deer season)

Silver Springs State Fish and Wildlife Area

Stephen A. Forbes State Fish and Wildlife Area

Ten Mile Creek Fish and Wildlife Area

Trail of Tears State Forest

Washington County Conservation Area

Weinberg-King State Park (1)

- e) Dog training at the following sites will be allowed throughout the year

Banner Marsh Fish and Wildlife Area (closed 7 days before through end of waterfowl season)

Des Plaines Conservation Area (closed during site's upland game season) (1) (2)

Mississippi River Fish and Waterfowl Management Area (Pools 25 and 26) (1)

Randolph County Conservation Area

Rock Cut State Park

(Source: Amended by emergency rulemaking at 24 Ill. Reg. **14069**, effective September 1, 2000, for a maximum of 150 days)

DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENTS

- 1) Heading of the Part: Meat and Poultry Inspection Act

Code Citation: 8 Ill. Adm. Code 125

3) Section Numbers: Proposed Action:

125.144 Amended

125.260 Amended

125.270 Amended

125.280 Amended

125.360 Amended

125.380 Amended

125.390 Amended

- 4) Reference to the Specific State or Federal Court Order, Federal Rule or Statute which Requires this Peremptory Rulemaking: The Meat and Poultry Inspection Act [225 ILCS 650]; the Federal Meat Inspection Act (21 USCA 661); the Federal Poultry Products Inspection Act (21 USCA 454); and 65 FR 34381.

- 5) Statutory Authority: The Meat and Poultry Inspection Act [225 ILCS 650].

- 6) Effective Date: August 30, 2000

- 7) A Complete Description of the Subjects and Issues Involved: In order to maintain an "equal to" status with the federal poultry products inspection program as required by the federal Poultry Products Inspection Act and in accordance with Section 16 of the Meat and Poultry Inspection Act, the Department is adopting amendments to the federal poultry products inspection rules.

The Food Safety and Inspection Service (FSIS) is amending the meat and poultry products inspection regulations by removing the remaining requirements pertaining to partial quality control (PQC) programs. A PQC program controls a single product, operation or part of an operation in a meat or poultry establishment. FSIS is removing the design requirements for PQC programs and the requirements for establishments to have PQC programs for certain products or processes. FSIS is also removing from the thermal processing regulations all requirements concerning PQC programs, the requirements for case-by-case FSIS approval of systems and devices not specified in the regulations and several other prior approval requirements. The amended regulations will be more consistent with the Pathogen Reduction (PR)/Hazard Analysis and Critical Control Points (HACCP) regulations and inspected establishments will have greater flexibility to adopt new technologies and methods that will improve food safety and other consumer protections. These amendments appear at 65 FR 34381 (effective August 28, 2000 and published in the May 30, 2000 Federal Register).

DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENTS

- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Date Filed with the Index Department: August 30, 2000
- 10) A copy of the adopted peremptory amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 11) This rule is in compliance with Section 5-50 of the Illinois Administrative Procedure Act.
- 12) Are there any proposed amendments pending to this Part: No
- 13) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 14) Information and questions regarding this peremptory amendment shall be directed to:

Linda Rhodes
 Illinois Department of Agriculture
 State Fairgrounds, P.O. Box 19281
 Springfield, Illinois 62794-9281
 Telephone: 217/785-5713
 Facsimile: 217/785-4505

The full text of the peremptory amendments begins on the next page:

DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENTS

TITLE 8: AGRICULTURE AND ANIMALS
 CHAPTER 1: DEPARTMENT OF AGRICULTURE
 SUBCHAPTER C: MEAT AND POULTRY INSPECTION ACT

PART 125

MEAT AND POULTRY INSPECTION ACT

SUBPART A: GENERAL PROVISIONS FOR BOTH MEAT AND/OR
 POULTRY INSPECTION

Section	
125.10	Definitions
125.10	Incorporation by Reference of Federal Rules
125.20	Application for License; Approval
125.30	Official Number
125.40	Inspections; Suspension or Revocation of License
125.50	Administrative Hearings; Appeals (Repealed)
125.60	Assignment and Authority of Program Employees
125.70	Schedule of Operations; Overtime
125.80	Official Marks of Inspection, Devices and Certificates
125.90	Records and Reports
125.100	Exemptions
125.110	Disposal of Dead Animals and Poultry
125.120	Reportable Animal and Poultry Diseases
125.130	Detention; Seizure; Condemnation
125.140	Sanitation Standard Operating Procedures (SOP's)
125.141	Hazard Analysis and Critical Control Point (HACCP) Systems
125.142	Imported Products
125.143	Preparation and Processing Operations
125.144	

SUBPART B: MEAT INSPECTION

Section	
125.150	Livestock and Meat Products Entering Official Establishments
125.160	Equine and Equine Products
125.170	Facilities for Inspection
125.180	Sanitation (Repealed)
125.190	Ante-Mortem Inspection
125.200	Post-Mortem Inspection
125.210	Disposal of Diseased or Otherwise Adulterated Carcasses and Parts
125.220	Humane Slaughter of Animals
125.230	Handling and Disposal of Condemned or Other Inedible Products at Official Establishment
125.240	Rendering or Other Disposal of Carcasses and Parts Passed for Cooking
125.250	Marking Products and Their Containers
125.260	Labeling, Marking and Containers
125.270	Entry into Official Establishment; Reinspection and Preparation of Product

DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENTS

125.280 Meat Definitions and Standards of Identity or Composition
 125.290 Transportation
 125.295 Imported Products (Repealed)
 125.300 Special Services Relating to Meat and Other Products
 125.305 Exotic Animal Inspection

SUBPART C: POULTRY INSPECTION

Section
 125.310 Application of Inspection
 125.320 Facilities for Inspection
 125.330 Sanitation (Repealed)
 125.340 Operating Procedures
 125.350 Ante-mortem Inspection
 125.360 Post-mortem Inspection; Disposition of Carcasses and Parts
 125.370 Handling and Disposal of Condemed or Inedible Products at Official Establishments
 125.380 Labeling and Containers
 125.390 Entry of Articles Into Official Establishments; Processing Inspection and Other Reinspections; Processing Requirements
 125.400 Definitions and Standards of Identity or Composition
 125.410 Transportation; Sale of Poultry or Poultry Products

AUTHORITY: Implementing and authorized by the Meat and Poultry Inspection Act [225 ILCS 650] and Section 16 of the Civil Administrative Code of Illinois [20 ILCS 5/16].

SOURCE: Adopted at 9 Ill. Reg. 1782, effective January 24, 1985; peremptory amendment at 9 Ill. Reg. 2337, effective January 28, 1985; peremptory amendment at 9 Ill. Reg. 2980, effective February 20, 1985; peremptory amendment at 9 Ill. Reg. 4856, effective April 4, 1985; peremptory amendment at 9 Ill. Reg. 9240, effective June 5, 1985; peremptory amendment at 9 Ill. Reg. 10102, effective June 13, 1985; peremptory amendment at 9 Ill. Reg. 11673, effective July 17, 1985; peremptory amendment at 9 Ill. Reg. 13748, effective August 23, 1985; peremptory amendment at 9 Ill. Reg. 15575, effective October 2, 1985; peremptory amendment at 9 Ill. Reg. 19759, effective December 5, 1985; peremptory amendment at 10 Ill. Reg. 447, effective December 23, 1985; peremptory amendment at 10 Ill. Reg. 1307, effective January 7, 1986; peremptory amendment at 10 Ill. Reg. 3318, effective January 24, 1986; peremptory amendment at 10 Ill. Reg. 3880, effective February 7, 1986; peremptory amendment at 10 Ill. Reg. 11478, effective June 25, 1986; peremptory amendment at 10 Ill. Reg. 14858, effective August 22, 1986; peremptory amendment at 10 Ill. Reg. 15305, effective September 10, 1986; peremptory amendment at 10 Ill. Reg. 16743, effective September 19, 1986; peremptory amendment at 10 Ill. Reg. 18203, effective October 15, 1986; peremptory amendment at 10 Ill. Reg. 19818, effective November 12, 1986; peremptory amendment at 11 Ill. Reg. 1696, effective January 5, 1987; peremptory amendment at 11 Ill. Reg. 2930, effective January 23, 1987; peremptory amendment at 11

DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENTS

111. Reg. 9645, effective April 29, 1987; peremptory amendment at 11 Ill. Reg. 10321, effective May 15, 1987; peremptory amendment at 11 Ill. Reg. 11184, effective June 5, 1987; peremptory amendment at 11 Ill. Reg. 14930, effective August 25, 1987; peremptory amendment at 11 Ill. Reg. 18799, effective November 3, 1987; peremptory amendment at 11 Ill. Reg. 19805, effective November 19, 1987; peremptory amendment at 12 Ill. Reg. 2154, effective January 6, 1988; amended at 12 Ill. Reg. 3417, effective January 22, 1988; peremptory amendment at 12 Ill. Reg. 4879, effective February 25, 1988; peremptory amendment at 12 Ill. Reg. 6313, effective March 21, 1988; peremptory amendment at 12 Ill. Reg. 13621, 6619, effective March 29, 1988; peremptory amendment at 12 Ill. Reg. 13621, effective August 8, 1988; peremptory amendment at 12 Ill. Reg. 19116, effective November 1, 1988; peremptory amendment at 13 Ill. Reg. 20894, effective January 21, 1989; peremptory amendment at 13 Ill. Reg. 2160, effective February 13, 1989; peremptory amendment at 13 Ill. Reg. 3696, effective March 13, 1989; peremptory amendment at 13 Ill. Reg. 15853, effective October 5, 1989; peremptory amendment at 13 Ill. Reg. 16838, effective October 18, 1990; amended at 14 Ill. Reg. 3424, effective February 26, 1990; peremptory amendment at 14 Ill. Reg. 4953, effective March 23, 1990; peremptory amendment at 14 Ill. Reg. 11401, effective July 6, 1990; peremptory amendment at 14 Ill. Reg. 13355, effective August 20, 1990; peremptory amendment at 14 Ill. Reg. 16064, effective September 24, 1990; peremptory amendment at 14 Ill. Reg. 21060, effective May 29, 1991; peremptory amendment at 15 Ill. Reg. 620, effective January 2, 1991; peremptory amendment withdrawn at 15 Ill. Reg. 1574, effective January 2, 1991; peremptory amendment at 15 Ill. Reg. 3117, effective September 3, 1991; peremptory amendment at 15 Ill. Reg. 8714, effective May 29, 1991; amended at 15 Ill. Reg. 8801, effective June 7, 1991; peremptory amendment at 15 Ill. Reg. 13976, effective September 20, 1991; peremptory amendment at 15 Ill. Reg. 1899, effective March 2, 1992; amended at 16 Ill. Reg. 8349, effective May 26, 1992; peremptory amendment at 16 Ill. Reg. 11687, effective July 10, 1992; peremptory amendment at 16 Ill. Reg. 11963, effective July 24, 1992; peremptory amendment at 16 Ill. Reg. 16337, effective October 19, 1992; peremptory amendment at 16 Ill. Reg. 17165, effective October 12, 1993; peremptory amendment at 16 Ill. Reg. 2063, effective February 12, 1993; peremptory amendment at 17 Ill. Reg. 15728, effective September 8, 1993; peremptory amendment at 17 Ill. Reg. 16238, effective October 5, 1993; peremptory amendment at 17 Ill. Reg. 18215, effective October 5, 1993; peremptory amendment at 18 Ill. Reg. 304, effective December 23, 1993; peremptory amendment at 18 Ill. Reg. 4622, effective March 14, 1994; peremptory amendment at 18 Ill. Reg. 6442, effective April 18, 1994; peremptory amendment at 18 Ill. Reg. 8493, effective May 27, 1994; amended at 18 Ill. Reg. 11489, effective July 7, 1994; peremptory amendment at 18 Ill. Reg. 12546, effective July 29, 1994; peremptory amendment at 18 Ill. Reg. 1475, effective September 26, 1994; peremptory amendment at 18 Ill. Reg. 14924, effective September 26, 1994; peremptory amendment at 18 Ill. Reg. 15452, effective September 27, 1994; peremptory amendment at 19 Ill. Reg. 1342, effective January 27, 1995;

DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENTS

peremptory amendment at 19 Ill. Reg. 4765, effective March 13, 1995; peremptory amendment at 19 Ill. Reg. 7067, effective May 8, 1995; peremptory amendment at 19 Ill. Reg. 14896, effective October 6, 1995; peremptory amendment at 19 Ill. Reg. 15766, effective November 10, 1995; peremptory amendment at 19 Ill. Reg. 16866, effective December 22, 1995; peremptory amendment at 20 Ill. Reg. 5091, effective March 19, 1996; peremptory amendment at 20 Ill. Reg. 10403, effective July 17, 1996; amended at 20 Ill. Reg. 11928, effective September 1, 1996; peremptory amendment at 20 Ill. Reg. 12634, effective September 1, 1996; peremptory amendment at 20 Ill. Reg. 15371, effective November 13, 1996; peremptory amendment at 21 Ill. Reg. 1221, effective January 14, 1997; peremptory amendment at 21 Ill. Reg. 1719, effective January 28, 1997; peremptory amendment at 21 Ill. Reg. 6609, effective May 20, 1997; amended at 21 Ill. Reg. 11494, effective August 1, 1997; peremptory amendment at 21 Ill. Reg. 11786, effective August 8, 1997; peremptory amendment at 21 Ill. Reg. 14575, effective October 22, 1997; peremptory amendment at 22 Ill. Reg. 3602, effective February 2, 1998; peremptory amendment at 22 Ill. Reg. 5740, effective March 5, 1998; peremptory amendment at 22 Ill. Reg. 9384, effective May 15, 1998; peremptory amendment at 22 Ill. Reg. 20645, effective November 16, 1998; amended at 23 Ill. Reg. 450, effective January 1, 1999; peremptory amendment at 23 Ill. Reg. 3851, effective March 11, 1999; peremptory amendment at 23 Ill. Reg. 10880, effective August 19, 1999; amended at 24 Ill. Reg. 3933, effective February 22, 2000; peremptory amendment at 24 Ill. Reg. 5699, effective March 14, 2000; peremptory amendment at 24 Ill. Reg. 6734, effective April 14, 2000; amended at 24 Ill. Reg. 7197, effective April 27, 2000; peremptory amendment at 24 Ill. Reg. 14074, effective August 30, 2000.

SUBPART A: GENERAL PROVISIONS FOR BOTH MEAT AND/OR
POULTRY INSPECTION

Section 125.144 Preparation and Processing Operations

The Department incorporates by reference 9 CFR 424 (1999); 64 FR 72168, effective January 24, 2000; 64 FR 72150, effective February 22, 2000; 65 FR 3121, effective March 20, 2000; 65 FR 34381, effective August 28, 2000).

(Source: Amended by peremptory rulemaking at 24 Ill. Reg. 14074, effective August 30, 2000)

SUBPART B: MEAT INSPECTION

Section 125.260 Labeling, Marking and Containers

a) The Department incorporates by reference 9 CFR 317.1 through 317.2(j)(10), 317.2(j)(12) through 317.4(f)(2), 317.6, 317.8, 317.10 through 317.13, 317.17 through 317.24, 317.300, 317.302, 317.308, 317.309, 317.312, 317.313, 317.343, 317.344, 317.345, 317.354, 317.356, 317.360, 317.361, 317.362, 317.363, 317.369, 317.380, 317.400

DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENTS

(1997); 62 FR 45016, effective September 24, 1997; 63 FR 72779, effective February 13, 1998, 64 FR 732, effective March 8, 1999; 64 FR 53186, effective November 30, 1999; 64 FR 72168, effective January 24, 2000; 64 FR 72150, effective February 22, 2000; 65 FR 34381, effective August 28, 2000).

- b) The Department shall approve only those abbreviations for marks of inspection as specifically stated in Section 2.26(j)(3) and (k)(3), (4), (5) and (9) of the Act.
- c) Labeling and sketch labeling shall be approved by the Department if the label is in compliance with the provisions of this Section and the label is not misbranded in accordance with Section 2.20 of the Act. All labels and sketch labels shall be submitted to the Springfield office of the Department for approval.
- d) The Department shall approve temporary labeling as stated in 9 CFR 317.4(f). Labeling which has received temporary approval shall not be used beyond the temporary approval period unless the printer or manufacturer of the label is unable to provide the official establishment with the labels before the expiration of the temporary approval.
- e) The quantity of contents as shown on the label shall be in compliance with the Weights and Measures Act (225 ILCS 470) and the rules adopted thereto (8 Ill. Adm. Code 600).
- f) The Department does not approve terms for generic labeling and considers the approval of terms as generic to be the responsibility of the federal government.
- g) With regard to the incorporated language in 9 CFR 317.6, the extension of time for exhausting existing stocks of labels is not applicable since all labels presently in use are in compliance with the rules of this Part.
- h) The Department does not issue a list of approved packaging materials and will permit for use any packaging material which has been approved by the U.S. Department of Agriculture (see 9 CFR 317.24 (1997)).
- i) Labels to be used for the relabeling of inspected and passed product shall be permitted to leave the official establishment when the product must be relabeled because the original labels have become multilisted or damaged. The official establishment shall reimburse the Department for any overtime costs, if applicable, involved for the inspector to supervise the relabeling of a product. The overtime charges shall be as set forth in Section 125.80.
- j) The inspector shall grant authorization to transport labels, wrappers and containers bearing official marks from one official establishment to another official establishment provided the official establishment provides to the inspector the information required in 9 CFR 317.13 so that the inspector can notify the inspector at the destination point.
- k) Labeling of custom slaughter and/or custom processed meat and/or meat products and the containers containing custom slaughtered and/or custom processed meat and/or meat products shall be as set forth in Section 5 of the Act.

DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENTS

- 1) References in the incorporated language to 9 CFR 312 shall be interpreted to mean in accordance with Section 125.30.

(Source: Amended by peremptory rulemaking at 24 Ill. Reg. 14 074 -, effective August 30, 2000)

Section 125-270 Entry into Official Establishment; Reinspection and Preparation of Product

- a) The Department incorporates by reference 9 CFR 318.1(c) through 318.6, 318.9 through 318.10, 318.14 through 318.20, 318.22, 318.23, 318.24, 318.30 through 318.31 (1997; 61 FR 58780, effective January 21, 1997; 62 FR 27940, effective July 21, 1997; 62 FR 33744, effective August 22, 1997; 62 FR 45016, effective September 24, 1997; 62 FR 43631, effective October 14, 1997; 62 FR 61619, effective January 20, 1998; 64 FR 732, effective March 8, 1999; 64 FR 27901, effective July 23, 1999; 64 FR 72168, effective January 24, 2000; 65 FR 34381, effective August 28, 2000).
- b) No meat or meat product shall be brought into an official establishment unless it is inspected or has been prepared in an official establishment or in a federally licensed establishment and is identified by an official inspection legend as set forth in Section 125.90, a Federal inspection legend, or is exempt from inspection as stated in Section 125.110. Meat and meat products received in an official establishment during the absence of the inspector shall be identified as set forth in Section 125.200 and, unless exempt from inspection, shall not be used or prepared, until they have been inspected. Any meat and meat product originally prepared at any official establishment may not be returned to any part of such establishment other than the receiving area until it has been reinspected by the inspector and passed. Wild game carcasses shall comply with Section 5(B)(4) of the Act. The official establishment shall maintain an inventory of non-meat items (e.g., spices, preservatives) which are received at the official establishment. Any product that is brought on the premises of an official establishment contrary to the provisions of this Section shall be removed immediately from such establishment by the operator of the establishment.
- c) Reinspections of meat and/or meat products within the official establishment shall be performed through the use of a random digit table.
- d) Docks and receiving rooms for meat and/or meat products or other articles used by the establishment in the preparation of meat products entering an official establishment shall be approved by the inspector if the location of such docks or receiving rooms will not permit such product or article to pass through rooms containing inspected and passed products.
- e) The manner of defrosting frozen products and methods of treating to

DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENTS

preserve products shall be in accordance with procedures as set forth in the "Meat and Poultry Inspection Manual" as adopted in Section 125.20.

- f) Casings or weasand shall be inspected and passed if it is in compliance with the specific provisions as stated in 9 CFR 318.5(i) for passage of such articles.
- g) The Department does not approve new substances to be used on meat or in meat products, their uses or the levels of use of an approved substance. Such substances will be permitted to be used and artificial flavorings may be used if they do not adulterate the meat and/or meat product in accordance with Section 2.11 of the Act and are in compliance with the provisions of this Section.
- h) References to exemptions from slaughter and custom slaughter shall mean those exemptions set forth in Section 125.110.
- i) References within the incorporated language to the federal Poultry Inspection Act, Section 403 of the Act, Section 7 of the Act, 9 CFR 303, and paragraph 23(a) of the Act shall be interpreted to mean in accordance with the Meat and Poultry Inspection Act and the rules of this Part.
- j) The Department does not approve thermometers for use in smokehouses, dry rooms and other compartments that are used in the treatment of pork.
- k) Disinfectants shall be those as set forth in Section 125.180.
- l) Adequate vacuum shall be determined through the use of vacuum gauges.
- m) Canned products which may be processed without steampressure cooking shall be those products as stated in the "Meat and Poultry Inspection Manual" as adopted by the Department in Section 125.20.
- n) The inspector shall permit lots of canned product to be shipped from the official establishment prior to the completion of the incubation period on representative samples in accordance with the specific provisions in 9 CFR 318.309.
- o) The standards and procedures for determining when ingredients of finished products are in compliance with this Section shall be as set forth in the "Meat and Poultry Inspection Manual" as adopted by the Department in Section 125.20.

(Source: Amended by peremptory rulemaking at 24 Ill. Reg. 14 074 -, effective August 30, 2000)

Section 125-280 Meat Definitions and Standards of Identity or Composition

The Department incorporates by reference 9 CFR 319 (1997; 62 FR 45016, effective September 24, 1997; 63 FR 147, effective March 6, 1998; 64 FR 27901, effective July 23, 1999; 64 FR 72168, effective January 24, 2000; 65 FR 34381, effective August 28, 2000). Methods for the destruction of live trichinae in pork shall be as set forth in Section 125.270 (specifically the incorporated language of 9 CFR 318.10(c)).

DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENTS

(Source: Amended by peremptory rulemaking at 24 Ill. Reg. 14 0 7 4, effective August 30, 2000)

SUBPART C: POULTRY INSPECTION

Section 125.360 Post-Mortem Inspection; Disposition of Carcasses and Parts

- a) The Department incorporates by reference 9 CFR 381: Subpart K (1997): 62 FR 5139, effective May 5, 1997; 62 FR 26211, effective June 12, 1997; 62 FR 61007, effective January 13, 1998; 65 FR 34381, effective August 28, 2000. The E. coli process control testing regulations set forth in 9 CFR 381.94(a) will be applicable on October 1, 1997, and the Salmonella pathogen reduction performance standards regulations set forth in 9 CFR 381.94(b) will be applicable simultaneously with applicability dates for implementation of HACCP in Section 125.142.
- b) Carcasses of rabbits affected with or showing lesions of any of the following named diseases or conditions shall be condemned: Tularemia, anthrax, hemorrhagic septicemia, pyemia, septicemia, leukemia, acute enteritis, peritonitis, sarcomatosis, metritis, streptobacillary (Smorl's Disease), tuberculosis, emaciation, streptobacillary pseudotuberculosis, and advanced stages of snuffles. Rabbits from pathological laboratories shall be condemned.
- c) Carcasses of rabbits showing any disease, such as generalized melanosis and pseudoleukemia which systemically affect the rabbit, shall be condemned.
- d) Any organ or part of a rabbit carcass which is badly bruised or which is affected by an abscess or a suppurating sore, shall be condemned. Parts or carcasses of rabbits which are contaminated by pus shall be condemned.
- e) Carcasses of rabbits contaminated by volatile oils, paints, poisons, gases or other substances which affect the wholesomeness of the carcass shall be condemned.
- f) All carcasses of rabbits so infected that consumption of the meat or meat food products thereof may give rise to meat poisoning shall be condemned. This includes all carcasses showing signs of any of the following diseases: Acute inflammation of the lungs, pleura, pericardium, peritoneum or meninges, septicemia or pyemia (whether traumatic, or without evident cause), gangrenous or severe hemorrhagic enteritis or gastritis, polyarthritis and acute nephritis. Immediately after the slaughter of any rabbit so infected, the infected premises and implements used shall be sanitized. The part or parts of any carcass coming into contact with the carcass or any part of the carcass of any rabbit listed in this paragraph other than those affected with acute inflammation of the lungs, pleura, pericardium, peritoneum or meninges, shall be condemned.
- g) Carcasses of rabbits showing any degree of icterus with a parenchymatous degeneration of organs, the result of infection or intoxication, and those which, as a result of a pathological condition

DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENTS

show an intense yellow or greenish-yellow discoloration without evidence of infection or intoxication shall be condemned.

- h) Carcasses of rabbits affected with mange or scab in advanced stages or showing emaciation or extension of the inflammation to the flesh shall be condemned. When the diseased condition is localized, the carcass shall be passed for food purposes after removal and condemnation of the affected parts.
- i) In the disposal of carcasses and parts of carcasses of rabbits showing evidence of infestation with parasites not transmissible to man, the following general rules shall govern: If the lesions are localized in such manner and are of such character that the parasites and the lesions caused by them may be radically removed, the non-affected portion of the carcass, or part of the carcass, shall be certified for food purposes after the removal and condemnation of the affected portions. Where a part of a carcass shows numerous lesions caused by parasites, or the character of the infestation is such that complete extirpation of the parasites and lesions is difficult and uncertainly accomplished, or if the parasitic infestation or invasion renders the organ or part in any way unfit for food, the affected organ or part shall be condemned. Where parasites are found to be distributed in a carcass in such a manner or to be of such a character that their removal and the removal of the lesions caused by them are impracticable, no part of the carcass shall be certified as capable for use as human food and the entire carcass shall be condemned. Carcasses of rabbits infested with a hydatid cyst or cysts (Echinococcus granulosus), transmissible to dogs and from dogs to man, shall in all cases be condemned regardless of the degree of infestation.
- j) Carcasses of rabbits showing such degree of emaciation or anemic condition as would render the meat unwholesome, and carcasses which show a slimy degeneration of the fat or a serious infiltration of the muscles shall be condemned.
- k) Carcasses of poultry, the viscera and any part removed from the carcass shall be kept together and identified by a lot number until the inspector performs a post-mortem inspection.

(Source: Peremptory amendment at 22 Ill. Reg. 14 0 7 4, effective August 30, 2000)

Section 125.380 Labeling and Containers

- a) The Department incorporates by reference 381.115 through 381.127, 381.129 through 381.132(f), 381.134 through 381.140, 381.144(a) through 381.144(d), 381.400, 381.402, 381.408, 381.409, 381.412, 381.413, 381.443, 381.444, 381.445, 381.454, 381.455, 381.460, 381.461, 381.462, 381.463, 381.469, 381.480, 381.500 (1997); 62 FR 45016, effective September 24, 1997; 63 FR 7279, effective February 13, 1998; 63 FR 11359, effective May 8, 1998; 64 FR 732, effective

DEPARTMENT OF AGRICULTURE

NOTICE OF PREEMPTORY AMENDMENTS

- March 8, 1999; 64 FR 53186, effective November 30, 1999; 64 FR 72168, effective January 24, 2000; 64 FR 72150, effective February 22, 2000; 65 FR 34381, effective August 28, 2000).
- b) Each shipping container and each immediate container containing inspected and passed poultry and/or poultry products shall be identified in accordance with the labeling provisions of this Section.
 - c) Immediate containers of poultry products packed in, bearing or containing any chemical additive shall bear a label naming the additive and the purpose of its use.
 - d) Labels for consumer packages shall be approved if the label is not misbranded in accordance with Section 2.20 of the Act and is in compliance with this Section.
 - e) The specific statements listed in 9 CFR 381.121 may be added to the label for the shipping container at the option of the licensee.
 - f) The quantity of contents as shown on the label shall be in compliance with the Weights and Measures Act and the rules adopted thereto (8 Ill. Adm. Code 600).
 - g) No labeling or containers that have not been approved shall be used until a final decision is rendered at an administrative hearing in accordance with Section 19 of the Act.
 - h) The Department shall approve the manufacture of a device or label containing an official mark of inspection provided the device or label is in compliance with Section 125.90.
 - i) Labeling and sketch labeling shall be approved by the Department if the label is in compliance with the provisions of this Section and the label is not misbranded in accordance with Section 2.20 of the Act. All labels and sketch labels shall be submitted to the Springfield office of the Department for approval.
 - j) The Department shall approve temporary labeling as stated in 9 CFR 381.132(f). Labeling which has received temporary approval shall not be used beyond the temporary approval period unless the printer or manufacturer of the label is unable to provide the official establishment with the permanent labels before the expiration of the temporary approval.
 - k) A copy of each label submitted for approval shall be accompanied by a statement showing the common or usual names, the kinds and percentages of the ingredients comprising the poultry product and a statement indicating the method or preparation of the product with respect to which the label is to be used. Laboratories used for chemical analysis shall be any approved laboratory as defined in 8 Ill. Adm. Code 20.1.
 - l) The Department does not approve terms for generic labeling and considers the approval of terms as generic to be the responsibility of the Federal government.
 - m) The Department does not issue a list of approved packaging materials and will permit for use any packaging material which has been approved by the U.S. Department of Agriculture (see 9 CFR 317.24 (1997)).
 - n) Labels and devices approved for use pursuant to Section 125.90 and

DEPARTMENT OF AGRICULTURE

NOTICE OF PREEMPTORY AMENDMENTS

- this Section shall be disposed of only when such labels or devices have been mutilated or damaged or when the establishment ceases to do business. Such labels and devices shall be given to the inspector for disposition.
- o) The inspector shall grant authorization to transport labels, wrappers and containers bearing official marks from one official establishment to another official establishment provided the official establishment provides to the inspector the information required in 9 CFR 381.138 so that the inspector can notify the inspector at the destination point.
 - p) Labels to be used for the relabeling of inspected and passed product shall be permitted to leave the official establishment when the product must be relabeled because the original labels have become mutilated or damaged. The official establishment shall reimburse the Department for any overtime costs, if applicable, involved for the inspector to supervise the relabeling of a product. The overtime charges shall be as set forth in Section 125.80.
 - q) Labeling of custom slaughtered and/or custom processed poultry and/or poultry products and the containers containing custom slaughtered and/or custom processed poultry products shall be as set forth in Section 5 of the Act.
 - r) The Department shall approve only those abbreviations for marks of inspection as specifically stated in Section 2.26(j)(3), (4), (5) and (9) of the Act.

(Source: Amended by peremptory rulemaking at 24 Ill. Reg. 14074, effective August 30, 2000)

Section 125.390 Entry of Articles Into Official Establishments; Processing Inspection and Other Reinspections; Processing Requirements

- a) The Department incorporates by reference 9 CFR 381.145(b) through 381.146, 381.148, 381.150 through 381.151, 381.200, 381.300 through 381.311 (1997); 62 FR 33744, effective August 22, 1997; 62 FR 45016, effective September 24, 1997; 64 FR 732, effective March 8, 1999; 64 FR 72168, effective January 24, 2000; 65 FR 2284, effective February 22, 2000; 65 FR 34381, effective August 28, 2000).
- b) No poultry or poultry product shall be brought into an official establishment unless it is inspected or has been prepared in an official establishment or in a federally licensed establishment and is identified by an official inspection legend as set forth in Section 125.90, the Federal inspection legend, or is exempt from inspection as stated in Section 125.110. However, poultry or poultry products imported into the United States may be transported to an inspection site in accordance with the provisions of 9 CFR 381.200 for reinspection.
- c) Poultry and poultry products received in an official establishment during the absence of the inspector shall be identified as set forth in Section 125.360 and, unless exempt from inspection, shall not be

DEPARTMENT OF AGRICULTURE

NOTICE OF PEREMPTORY AMENDMENTS

used or prepared until they have been reinspected. Any poultry and/or poultry product originally prepared at any official establishment may not be returned to any part of such establishment other than the receiving area until it has been reinspected and passed by the inspector.

d) The official establishment shall maintain an inventory of non-poultry items (e.g., spices, preservatives) which are received at the official establishment. Any product that is brought on the premises of an official establishment contrary to the provisions of this Section shall be removed immediately from such establishment by the operator of the establishment.

e) Reinspections of poultry and/or poultry products within the official establishment shall be performed through the use of a random digit table.

f) Poultry feet shall be approved for processing for human food in accordance with the procedures set forth in the "Meat and Poultry Inspection Manual" as adopted by the Department in Section 125.26.

g) The Department does not approve new substances to be used on poultry or in poultry products, their uses or the levels of use of an approved substance. Such substances will be permitted to be used if they will not adulterate the poultry and/or poultry product in accordance with Section 2.11 of the Act and are in compliance with the provisions of this Section.

h) Ready-to-heat-and-eat poultry or stuffed ready-to-roast poultry may be moved from an official establishment prior to freezing in accordance with the provisions of Section 125.330 (specifically the incorporated language in 9 CFR 381.66(f)(3)).

i) Any method of cleaning immediate containers used for the holding of poultry and poultry products shall be approved if such method is in compliance with the sanitation requirements (see Section 125.330).

j) Cooked poultry products which may be processed without steam-pressure canning shall be those products as stated in the "Meat and Poultry Inspection Manual" as adopted by the Department in Section 125.20.

k) The inspector shall permit lots of canned poultry products to be shipped from the official establishment prior to the completion of the incubation period on the representative samples in accordance with the specific provisions in 9 CFR 381.309.

l) Disinfectants which may be used in an official establishment shall be those products on the "List of Proprietary Substances and Nonfood Compounds" as adopted by the Department in Section 125.20.

(Source: Amended by peremptory rulemaking at 24 Ill. Reg. 14074, effective August 30, 2000)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF REFUSAL TO MEET THE OBJECTION OF THE JOINT COMMITTEE ON ADMINISTRATIVE RULES

1) Heading of the Part: Child Care

2) Code Citation: 89 Ill. Adm. Code 50

3) Section Numbers: Action:
50.410 New Section
50.420 New Section

4) Date Notice of Proposed Amendments Published in the Register: April 21, 2000, 24 Ill. Reg. 6477

5) Date JCAR Statement of Objection Published in the Register: September 1, 2000, 24 Ill. Reg. 13433

6) Summary of Action Taken by the Agency: The Department of Human Services respectfully disagrees with the Objection to Proposed Rulemaking. The Department will proceed with adoption of the proposed amendments prior to the 9/1/00 expiration of the emergency amendments.

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF WITHDRAWAL TO MEET THE OBJECTION OF THE JOINT COMMITTEE
ON ADMINISTRATIVE RULES

- 1) Heading of the Part: Asbestos Abatement for Public and Private Schools and Commercial and Public Buildings in Illinois
- 2) Code Citation: 77 Ill. Adm. Code 855
- 3) Section Numbers: 855.10
855.450
Action: Withdrawal
- 4) Date Notice of Proposed Rules Published in the Register: August 27, 1999;
23 Ill. Reg. 10108
- 5) Date JCAR Statement of Objection Published in the Register: September 1,
2000; 24 Ill. Reg. 13434
- 6) Summary of Action Taken by the Agency: Counsel for the commenting party who initially suggested the rule modification concerning the OSHA program has recommended that the Department allow the rulemaking to expire. The Department agrees to allow the rulemaking to expire.

JOINT COMMITTEE ON ADMINISTRATIVE RULES

JAMES R. THOMPSON CENTER
ROOM 16-503
CHICAGO, ILLINOIS
10:30 A.M.
SEPTEMBER 19, 2000

NOTICES: Due to Register submittal deadlines, the Agenda below may be incomplete. Other items not contained in this published Agenda are likely to be considered by the Committee at the meeting.

It is the policy of the Committee to allow only representatives of State agencies to testify orally on any rule under consideration at Committee hearings. If members of the public wish to express their views with respect to a proposed rule, they should submit written comments to the Office of the Joint Committee on Administrative Rules at the following address:

*Joint Committee on Administrative Rules
700 Stratton Office Building
Springfield, Illinois 62706*

RULEMAKINGS SCHEDULED FOR JCAR REVIEW

The following rulemakings are scheduled for review at this meeting. JCAR staff may be proposing action with respect to some of these rulemakings. JCAR members may have questions concerning, and may initiate action with respect to, any item scheduled for JCAR review and any other issues within the Committee's purview.

PROPOSED RULEMAKINGS

Central Management Services

1. Back Wage Claim Administration (80 Ill Adm Code 331)
-First Notice Published: 24 Ill Reg 7570 - 5/26/00
-Expiration of Second Notice: 10/13/00

Children and Family Services

2. Licensure of Direct Welfare Services Employees and Supervisors (89 Ill Adm Code 412)
-First Notice Published: 24 Ill Reg 3464 - 3/3/00
-Expiration of Second Notice: 10/15/00

Commerce and Community Affairs

3. Illinois Promotion Act Programs (14 Ill Adm Code 510)
-First Notice Published: 24 Ill Reg 6631 - 4/28/00
-Expiration of Second Notice: 10/12/00

Commerce Commission

JOINT COMMITTEE ON ADMINISTRATIVE RULES

JAMES R. THOMPSON CENTER
ROOM 16-503
CHICAGO, ILLINOIS
10:30 A.M.
SEPTEMBER 19, 2000

4. Certification of Alternative Retail Electric Suppliers (83 Ill Adm Code 451)
 - First Notice Published: 24 Ill Reg 5083 - 3/31/00
 - Expiration of Second Notice: 10/4/00
5. Rules of Practice (83 Ill Adm Code 200)
 - First Notice Published: 24 Ill Reg 7806 - 6/2/00
 - Expiration of Second Notice: 10/15/00
6. Arbitration Practice (83 Ill Adm Code 761)
 - First Notice Published: 24 Ill Reg 7794 - 6/2/00
 - Expiration of Second Notice: 10/19/00
7. Approval or Rejection of Arbitrated Agreements (83 Ill Adm Code 762)
 - First Notice Published: 24 Ill Reg 7783 - 6/2/00
 - Expiration of Second Notice: 10/19/00
8. Approval for Negotiated Agreements (83 Ill Adm Code 763)
 - First Notice Published: 24 Ill Reg 7771 - 6/2/00
 - Expiration of Second Notice: 10/19/00
9. Telecommunications Enforcement (83 Ill Adm Code 766)
 - First Notice Published: 24 Ill Reg 7834 - 6/2/00
 - Expiration of Second Notice: 10/19/00
10. Household Goods Carriers (92 Ill Adm Code 1457)
 - First Notice Published: 23 Ill Reg 13453 - 11/12/99
 - Expiration of Second Notice: 9/29/00
11. Comptroller
Repeal of Public Radio and Television Station Grants (74 Ill Adm Code 280)
 - First Notice Published: 24 Ill Reg 8703 - 6/30/00
 - Expiration of Second Notice: 10/7/00
12. Elections
Established Political Party and Independent Candidate Nominating Petitions (26 Ill Adm Code 201)
 - First Notice Published: 23 Ill Reg 12013 - 10/8/99
 - Expiration of Second Notice: 10/17/00

JOINT COMMITTEE ON ADMINISTRATIVE RULES

JAMES R. THOMPSON CENTER
ROOM 16-503
CHICAGO, ILLINOIS
10:30 A.M.
SEPTEMBER 19, 2000

13. New Political Party Nominating Petitions (26 Ill Adm Code 202)
 - First Notice Published: 23 Ill Reg 12016 - 10/8/99
 - Expiration of Second Notice: 10/17/00
- Employment Security
14. General Provisions (56 Ill Adm Code 2960)
 - First Notice Published: 24 Ill Reg 9300 - 7/7/00
 - Expiration of Second Notice: 10/6/00
- Environmental Protection Agency
15. Procedures for Issuing Loans from the Public Water Supply Loan Program (35 Ill Adm Code 662)
 - First Notice Published: 24 Ill Reg 6185 - 4/14/00
 - Expiration of Second Notice: 9/20/00
16. Procedures and Requirements for Determining Loan Priorities of Projects in Public Water Supply Loan Program (35 Ill Adm Code 663)
 - First Notice Published: 24 Ill Reg 6176 - 4/14/00
 - Expiration of Second Notice: 9/20/00
- Human Services
17. Repeal of Research (77 Ill Adm Code 2075)
 - First Notice Published: 24 Ill Reg 8197 - 6/16/00
 - Expiration of Second Notice: 10/4/00
18. Child Care (89 Ill Adm Code 50)
 - First Notice Published: 24 Ill Reg 9316 - 7/7/00
 - Expiration of Second Notice: 10/15/00
19. Related Program Provisions (89 Ill Adm Code 117)
 - First Notice Published: 24 Ill Reg 9323 - 7/7/00
 - Expiration of Second Notice: 10/15/00
20. Food Stamps (89 Ill Adm Code 121)
 - First Notice Published: 24 Ill Reg 8186 - 6/16/00
 - Expiration of Second Notice: 10/4/00
- Insurance
21. Mortgage Guaranty Insurance (50 Ill Adm Code 202)

JOINT COMMITTEE ON ADMINISTRATIVE RULES

JAMES R. THOMPSON CENTER
ROOM 16-503
CHICAGO, ILLINOIS
10:30 A.M.
SEPTEMBER 19, 2000

-First Notice Published: 24 Ill Reg 7457 - 5/19/00
-Expiration of Second Notice: 9/27/00

22. Accelerated Life Benefit/Terminal Illness/Qualified Conditions (50 Ill Adm Code 1407)

-First Notice Published: 24 Ill Reg 8201 - 6/16/00
-Expiration of Second Notice: 10/11/00

23. Reimbursement Provision Contained in Individual and Group Accident and Health Policies (50 Ill Adm Code 2020)

-First Notice Published: 24 Ill Reg 7852 - 6/2/00
-Expiration of Second Notice: 10/14/00

Lottery

24. Lottery (General) (11 Ill Adm Code 1770)

-First Notice Published: 24 Ill Reg 8477 - 6/23/00
-Expiration of Second Notice: 9/22/00

Public Aid

25. Medical Assistance Programs (89 Ill Adm Code 120)

-First Notice Published: 24 Ill Reg 10056 - 7/14/00
-Expiration of Second Notice: 10/13/00

26. Medical Payment (89 Ill Adm Code 140)

-First Notice Published: 24 Ill Reg 10058 - 7/14/00
-Expiration of Second Notice: 10/13/00

27. Hospital Services (89 Ill Adm Code 148)

-First Notice Published: 24 Ill Reg 8789 - 6/30/00
-Expiration of Second Notice: 10/13/00

28. Long Term Care Reimbursement Changes (89 Ill Adm Code 153)

-First Notice Published: 24 Ill Reg 10054 - 7/14/00
-Expiration of Second Notice: 10/13/00

Public Health

29. Illinois Home Health Agency Code (77 Ill Adm Code 245)

-First Notice Published: 24 Ill Reg 4119 - 3/17/00
-Expiration of Second Notice: 9/23/00

JOINT COMMITTEE ON ADMINISTRATIVE RULES

JAMES R. THOMPSON CENTER
ROOM 16-503
CHICAGO, ILLINOIS
10:30 A.M.
SEPTEMBER 19, 2000

30. Hospital Licensing Requirements (77 Ill Adm Code 250)
-First Notice Published: 24 Ill Reg 4102 - 3/17/00
-Expiration of Second Notice: 9/23/00

31. Skilled Nursing and Intermediate Care Facilities Code (77 Ill Adm Code 300)

-First Notice Published: 24 Ill Reg 4889 - 3/24/00
-Expiration of Second Notice: 9/23/00

32. Sheltered Care Facilities Code (77 Ill Adm Code 330)

-First Notice Published: 24 Ill Reg 4864 - 3/24/00
-Expiration of Second Notice: 9/22/00

33. Illinois Veterans' Homes Code (77 Ill Adm Code 340)

-First Notice Published: 24 Ill Reg 4131 - 3/17/00
-Expiration of Second Notice: 9/23/00

34. Intermediate Care for Developmentally Disabled Facilities Code (77 Ill Adm Code 350)

-First Notice Published: 24 Ill Reg 4816 - 3/24/00
-Expiration of Second Notice: 9/23/00

35. Community Living Facilities Code (77 Ill Adm Code 370)

-First Notice Published: 24 Ill Reg 4088 - 3/17/00
-Expiration of Second Notice: 9/21/00

36. Long-Term Care for Under Age 22 Facilities Code (77 Ill Adm Code 390)

-First Notice Published: 24 Ill Reg 4843 - 3/24/00
-Expiration of Second Notice: 9/21/00

Racing Board

37. Racetrack Improvements (11 Ill Adm Code 452)

-First Notice Published: 24 Ill Reg 9336 - 7/7/00
-Expiration of Second Notice: 10/6/00

Secretary of State

38. State Gift Ban Act (2 Ill Adm Code 568)

-First Notice Published: 24 Ill Reg 6651 - 4/28/00
-Expiration of Second Notice: 10/14/00

39. Commercial Driver Training Schools (92 Ill Adm Code 1060)

JOINT COMMITTEE ON ADMINISTRATIVE RULES

JAMES R. THOMPSON CENTER
ROOM 16-503
CHICAGO, ILLINOIS
10:30 A.M.
SEPTEMBER 19, 2000

- First Notice Published: 24 Ill Reg 8225 - 6/16/00
-Expiration of Second Notice: 10/11/00

Transportation

40. Diesel Emission Inspection Program (92 Ill Adm Code 460)
-First Notice Published: 24 Ill Reg 10112 - 7/14/00
-Expiration of Second Notice: 10/12/00

EMERGENCY AND PEREMPTORY RULEMAKINGSBoard of Elections

41. The Campaign Financing Act (26 Ill Adm Code 100) (Emergency)
-Notice Published: 24 Ill Reg 13039 - 8/25/00

Insurance

42. Privacy of Personal Information (50 Ill Adm Code 4001) (Emergency)
-Notice Published: 24 Ill Reg 12137 - 8/11/00

Secretary of State

43. Issuance of Licenses (92 Ill Adm Code 1030) (Emergency)
-Notice Published: 24 Ill Reg 13044 - 8/25/00

AGENCY RESPONSESHuman Services

44. Child Care (89 Ill Adm Code 50; 24 Ill Reg 6477)

Pollution Control Board

45. Standards for Universal Waste Management (35 Ill Adm Code 733; 24 Ill Reg 4766)

Public Health

46. Asbestos Abatement for Public and Private Schools and Commercial and Public Buildings in Illinois (77 Ill Adm Code 855; 23 Ill Reg 10108)

Revenue

JOINT COMMITTEE ON ADMINISTRATIVE RULES

JAMES R. THOMPSON CENTER
ROOM 16-503
CHICAGO, ILLINOIS
10:30 A.M.
SEPTEMBER 19, 2000

47. Cigarette Tax Act (86 Ill Adm Code 440; 24 Ill Reg 3096)
48. Cigarette Use Tax Act (86 Ill Adm Code 450; 24 Ill Reg 3102)

JOINT COMMITTEE ON ADMINISTRATIVE RULES

ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of August 29, 2000 through September 5, 2000 and have been scheduled for review by the Committee at its September 19, 2000 meeting in Chicago. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second Notice Expires	Agency and Rule	Start Of First Notice	JCAR Meeting
10/12/00	Department of Commerce and Community Affairs, Illinois Promotion Act Programs (14 Ill. Adm Code 510)	4/28/00 24 Ill Reg 6631	9/19/00
10/12/00	Department of Transportation, Diesel Emission Inspection Program (92 Ill Adm Code 460)	7/14/00 24 Ill Reg 10112	9/19/00
10/13/00	Department of Public Aid, Medical Assistance Programs (89 Ill Adm Code 120)	7/14/00 24 Ill Reg 10056	9/19/00
10/13/00	Department of Public Aid, Hospital Services (89 Ill Adm Code 148)	6/30/00 24 Ill Reg 8789	9/19/00
10/13/00	Department of Public Aid, Long Term Care Reimbursement Changes (89 Ill Adm Code 153)	7/14/00 24 Ill Reg 10054	9/19/00
10/13/00	Department of Public Aid, Medical Payment (89 Ill Adm Code 140)	7/14/00 24 Ill Reg 10058	9/19/00
10/13/00	Department of Central Management Services, Back Wage Claim Administration (80 Ill Adm Code 331)	5/26/00 24 Ill Reg 7570	9/19/00
10/14/00	Department of Insurance, Reimbursement Provision Contained in Individual and Group Accident and Health Policies (50 Ill Adm Code 2020)	6/2/00 24 Ill Reg 7852	9/19/00

JOINT COMMITTEE ON ADMINISTRATIVE RULES

ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

10/14/00	Secretary of State, State Gift Ban Act (2 Ill Adm Code 568)	4/28/00 24 Ill Reg 6651	9/19/00
10/15/00	Department of Human Services, Child Care (89 Ill Adm Code 50)	7/7/00 24 Ill Reg 9316	9/19/00
10/15/00	Department of Human Services, Related Program Provisions (89 Ill Adm Code 117)	7/7/00 24 Ill Reg 9323	9/19/00
10/15/00	Illinois Commerce Commission, Rules of Practice (83 Ill Adm Code 200)	6/2/00 24 Ill Reg 7806	9/19/00
10/15/00	Department of Children and Family Services, Licensure of Direct Welfare Services Employees and Supervisors (89 Ill Adm Code 412)	3/3/00 24 Ill Reg 3464	9/19/00
10/19/00	Illinois Commerce Commission, Approval for Negotiated Agreements (83 Ill Adm Code 763)	6/2/00 24 Ill Reg 7771	9/19/00
10/19/00	Illinois Commerce Commission, Approval or Rejection of Arbitrated Agreements (83 Ill Adm Code 762)	6/2/00 24 Ill Reg 7783	9/19/00
10/19/00	Illinois Commerce Commission, Arbitration Practice (83 Ill Adm Code 761)	6/2/00 24 Ill Reg 7794	9/19/00
10/19/00	Illinois Commerce Commission, Telecommunications Enforcement (83 Ill Adm Code 766)	6/2/00 24 Ill Reg 7834	9/19/00

PROCLAMATIONS

2000-380 (REVISED 2)

THEORETICAL AND APPLIED MECHANICS DAY

WHEREAS, the 20th International Congress of Theoretical and Applied Mechanics, ICTAM2000, is being held in Chicago, Illinois, during the week of August 28, 2000; and

WHEREAS, the international congresses of the International Union of Theoretical and Applied Mechanics have been ongoing for more than 75 years, and have visited major cities of the world including several sister cities of Chicago; and

WHEREAS, prior congresses have been held in the United States of America on only two prior occasions in 1938 and in 1968; and

WHEREAS, ICTAM2000 is invited by the US National Academy of Sciences, the pre-eminent scientific body of this nation; and

WHEREAS, the host university consortium includes several illustrious institutions of higher learning in the State of Illinois, to wit University of Illinois at Urbana-Champaign, University of Illinois at Chicago, University of Chicago, and Illinois Institute of Technology; and

WHEREAS, the attendees at ICTAM2000 represent a gathering of leading researchers and scholars in the mechanical sciences from the international scientific community encompassing more than 50 nations;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim, August 28, 2000, as THEORETICAL AND APPLIED MECHANICS DAY in Illinois.

Issued by the Governor August 21, 2000.

Filed by the Secretary of State August 28, 2000.

2000-402

ENGLISH BROTHERS DAY

WHEREAS, English Brothers Company was founded in 1902 by Richard C. English and Edward C. English, and is currently headed by Edward J. Hynds, Jr., a 1954 graduate of the University of Illinois in Industrial Administration; and

WHEREAS, during 97 years of operation, English Brothers Company has constructed many very significant buildings throughout the Midwest, including Camp Perry and Camp Lawrence at the Great Lakes Naval Training Center, the original Chanute Air Force Base, Lincoln's Tomb in Springfield, and Lincoln's New Salem Village near Petersburg; and

WHEREAS, English Brothers, along with Carpenters Local # 44 and Steamfitters Local #149, have had an economic impact on Champaign County's purchasing and employment, and have enjoyed an exemplary reputation with architects and owners; and

WHEREAS, English Brothers, Carpenters' Local #44, and Plumbers and Steamfitters Local #149 are celebrating 100 years of successful labor-management experience in Champaign, Illinois, and will be recognized at the Labor Day Celebration;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim September 5, 2000, as ENGLISH BROTHERS DAY in Illinois.

Issued by the Governor August 21, 2000.

Filed by the Secretary of State August 28, 2000.

2000-403

IMAM W. DEEN MOHAMMED WEEKEND

WHEREAS, Imam W. Deen Mohammed was born October 30, 1933, to Elijah (Poole) Muhammad and Clara (Evans) Muhammad, Imam W. Deen Mohammed is the leader of the Muslim American Society and many others, and is recognized as the Muslim American spokesman; and

WHEREAS, Imam Mohammed has received countless awards and acknowledgments for his promotion of universal human excellence; and

WHEREAS, his contributions toward building respect for Islamic life in America and the establishment of direct and genuine dialogue between the leaders of Islam, Christianity, and Judaism are commendable; and

WHEREAS, as part of the inaugural activities for the election and reelection of President Clinton, Imam Mohammed participated as a representative of Islam in the Inaugural Interfaith Prayer Service; and

WHEREAS, Imam Mohammed addressed a gathering of 100,000 in The Vatican, Rome, with Pope John Paul II and the Dalai Lama present; and

WHEREAS, he participated in back-to-back peace conferences in Israel and Jordan;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim September 1-4, 2000, as IMAM W. DEEN MOHAMMED WEEKEND in Illinois.

Issued by the Governor August 21, 2000.

Filed by the Secretary of State August 28, 2000.

2000-404

PLEASANTVILLE FIRE PROTECTION DISTRICT 90 DAY REFERENCE PERIOD

WHEREAS, the Pleasantville Fire Protection District desires to provide Hospital Insurance (Medicare) coverage for its employees not mandatorily covered for Hospital Insurance pursuant to Public Law 99-272 and pursuant to Public Law 101-508; and

WHEREAS, a referendum must be conducted in accordance with the Federal Social Security Act and Illinois Pension Code, Article 21, as amended, which requires that each eligible employee who is a participant in the Fire Protection District's retirement plan be given the opportunity to register his/her personal choice by written ballot to whether he/she elects Hospital Insurance coverage; and

WHEREAS, the referendum procedure requires that each eligible employee shall be given a detailed description of the two choices available to him/her and allowed 90 days notice prior to the exercise of his/her right to choose; and

WHEREAS, I hereby designate the Executive Secretary of the State Employees' Retirement System and the President of the Board of Trustees of the Pleasantville Fire Protection District as the officials who are jointly responsible for the distribution of the details of the proclamation pursuant to the provisions of the Federal Social Security Act and the Illinois Pension Code, Article 21, as amended. I hereby confer upon such officials in the authority to jointly certify the results of the referendum to be conducted as herein proclaimed in accordance with said statutes; to allocate their other duties under this proclamation among themselves; and to delegate such other duties to others as they shall deem appropriate;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim

a period of at least 90 days notice between the dates of September 1, 2000, through November 30, 2000, to eligible employees of the Pleasantville Fire Protection District that their choice shall be expressed by written ballot in conformity with the referendum procedure under the Federal Social Security Act and the Illinois Pension Code. The ballots shall be returned to the President of the Board of Trustees for the Pleasantview Fire District and the referendum concluded not later than November 30, 2000.

Issued by the Governor August 21, 2000.

Filed by the Secretary of State August 28, 2000.

2000-405

ALCOHOL AND DRUG ADDICTION RECOVERY MONTH

WHEREAS, Recovery Communities United, the Illinois affiliate of the National Council on Alcoholism and Drug Dependence, is celebrating September 2000 as Alcohol and Drug Addiction Recovery Month in the State of Illinois; and

WHEREAS, acknowledging September 2000 offers advocates of substance abuse treatment an opportunity to educate the public and policymakers about the effectiveness of treatment, both societal and financial; and

WHEREAS, substance abuse is a major health problem that puts millions of adolescents at risk for alcohol-related and drug-related traffic accidents, risky sexual practices, juvenile delinquency, and developmental problems; and

WHEREAS, thousands of health care providers have dedicated their lives to the recovery process and to the education of the public about alcoholism, drug dependence, and treatment issues;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim September 2000 as ALCOHOL AND DRUG ADDICTION RECOVERY MONTH in Illinois.

Issued by the Governor August 22, 2000.

Filed by the Secretary of State August 28, 2000.

2000-406

FAMILY DAY

WHEREAS, the Family Organization Concentrating on Unity and Strength celebrated its sixth annual Family Day on August 5, 2000; and

WHEREAS, Family Day recognizes the contributions of strong families to their schools, neighborhoods, and State; and

WHEREAS, the Family Organization Concentrating on Unity and Strength has made Family Day an opportunity for families to come together as a community;

WHEREAS, Family Day provides a forum for families to share their successes, that they may be repeated throughout the community, and throughout other communities;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim August 5, 2000, as FAMILY DAY in Illinois.

Issued by the Governor August 22, 2000.

Filed by the Secretary of State August 28, 2000.

2000-407

FREEPORT ELKS LODGE #617 DAY

WHEREAS, the Benevolent and Protective Order of Elks was started on

February 16, 1868, in New York City by a group of budding actors who gathered for companionship and to help their unemployed peers; and

WHEREAS, the idea caught on and spread to other groups and other cities, expanding its membership bases to include all occupations; and

WHEREAS, Freeport, Illinois, Lodge #617 was formed on September 9, 1900, and has been in Freeport for 100 years; and

WHEREAS, the local lodge has been active in the community, providing scholarships through The Most Valuable Student Program and the Illinois Elks Crippled Children Corporation for students seeking a career in physical therapy; and

WHEREAS, the Freeport lodge volunteers help veterans by displaying the American Flag at Krape Park on Flag Day, and visit nursing homes and day care centers with their Easter Bunny during the Easter celebration; and

WHEREAS, remembering the Elks motto, "Elks Care-Elks Share," Freeport Elks Lodge cares and shares their resources with their community;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim September 9, 2000, as FREEPORT ELKS LODGE #617 DAY in Illinois.

Issued by the Governor August 22, 2000.

Filed by the Secretary of State August 28, 2000.

2000-408

UKRAINIAN DAY

WHEREAS, Ukrainian Americans have contributed greatly to the State of Illinois in all areas including arts, education, sciences, business, medicine, law, government, and public service; and

WHEREAS, the Ukrainian community has several institutions including the Ukrainian Institute of Modern Art, the Ukrainian National Museum, the American Ukrainian Youth Association and the Association of American Youth of Ukrainian Descent; and

WHEREAS, Senator Walter Dudyycz plays a significant role in supporting the cultural tapestry of the State of Illinois; and

WHEREAS, Selfreliance Ukrainian Federal Credit Union plays a significant role in supporting Ukrainian culture and heritage; and

WHEREAS, the Ukrainian community of Illinois will be honored at the Governor's Executive Mansion; and

WHEREAS, Ukrainian heritage celebration will include a cultural program presented by Ukrainian American Organizations;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim August 24, 2000, as UKRAINIAN DAY in Illinois.

Issued by the Governor August 22, 2000.

Filed by the Secretary of State August 28, 2000.

2000-408 (REVISED)

UKRAINIAN DAY

WHEREAS, Ukrainian Americans have contributed greatly to the State of Illinois in all areas including arts, education, sciences, business, medicine, law, government, and public service; and

WHEREAS, the Ukrainian community has several institutions including the Ukrainian Institute of Modern Art, the Ukrainian National Museum, the American Ukrainian Youth Association and the Association of American Youth of Ukrainian

Descent; and

WHEREAS, Senator Walter Dudydz plays a significant role in supporting the cultural tapestry of the State of Illinois; and

WHEREAS, Selfreliance Ukrainian Federal Credit Union plays a significant role in supporting Ukrainian culture and heritage; and

WHEREAS, the Ukrainian community of Illinois will be honored at the Governor's Executive Mansion; and

WHEREAS, Ukrainian heritage celebration will include a cultural program presented by Ukrainian American Organizations;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim September 17, 2000, as UKRAINIAN DAY in Illinois.

Issued by the Governor August 25, 2000.

Filed by the Secretary of State September 5, 2000.

2000-409

CHICAGO TORAH NETWORK DAY

WHEREAS, the Chicago Torah Network is a dynamic Jewish Outreach and Education Organization, founded in 1990, and is celebrating its 10th Anniversary; and

WHEREAS, the Chicago Torah Network helps Jews of all backgrounds and affiliations discover greater depth and relevance in Jewish education and tradition through its home and office study groups, singles programs and self-improvement seminars; and

WHEREAS, the Chicago Torah Network provides high quality Jewish learning and experience in a meaningful and convenient way; and

WHEREAS, the Chicago Torah Network publishes a weekly Shabbat Fax, an internationally acclaimed fax and e-mail publication that brings Jewish wisdom and inspiration to over 5,000 people each week and "Brings Community to Judaism by Bringing Judaism to the Community"; and

WHEREAS, the Chicago Torah Network is honoring Marianne and Stuart Taussig for their contribution to the Jewish Community at the Tenth Annual Dinner Gala Celebration on Thursday, September 7, 2000;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim September 7, 2000 as CHICAGO TORAH NETWORK DAY in Illinois.

Issued by the Governor August 23, 2000.

Filed by the Secretary of State August 28, 2000.

2000-410

FOOD SAFETY AWARENESS MONTH

WHEREAS, the United States has one of the safest food supplies in the world; and

WHEREAS, safe food handling by employees is emphasized on a continual basis in the retail sector at a tremendous cost to the retailer; and

WHEREAS, retailers have been at the cutting edge of the development of safe food handling procedures; and

WHEREAS, despite the constant training and evolution of safe food handling procedures between six million and 33 million cases of food-borne illnesses occur each year in the U.S.; and

WHEREAS, as many as 250,000 such illnesses occur in the State of Illinois each year; and

WHEREAS, the vast majority of these food-borne illnesses occur in the home and might be avoided with appropriate consumer education; and

WHEREAS, the retail sector in Illinois continues to work with the appropriate state and local health agencies to better educate consumers on good food safety procedures, as well as develop even better food handling procedures; and

WHEREAS, September has been designated as National Food Safety Awareness Month;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim September 2000 as FOOD SAFETY AWARENESS MONTH in Illinois.

Issued by the Governor August 23, 2000.

Filed by the Secretary of State August 28, 2000.

2000-411

MAKE A DIFFERENCE DAY

WHEREAS, each year USA WEEKEND magazine and the Points of Light Foundation challenge Americans to spend their Saturday "making a difference" in their communities and in the lives of those in need; and,

WHEREAS, Make a Difference Day was founded to promote volunteer efforts that make our community a better, cleaner, safer place to live, work and play; and,

WHEREAS, last year nearly two million people volunteered on this one day and millions of people benefited from their efforts; and,

WHEREAS, this year marks the ninth annual Make A Difference Day and millions of volunteers, corporations, government leaders and charitable organizations are expected to be participating in the Make a Difference Day activities; and,

WHEREAS, a day of volunteerism and community service is valuable to the community and gives a feeling of accomplishment and compassion to every participant;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim October 28, 2000, as MAKE A DIFFERENCE DAY in Illinois.

Issued by the Governor August 23, 2000.

Filed by the Secretary of State August 28, 2000.

2000-411 (REVISED)

MAKE A DIFFERENCE DAY

WHEREAS, each year USA WEEKEND magazine and the Points of Light Foundation challenge Americans to spend their Saturday "making a difference" in their communities and in the lives of those in need; and,

WHEREAS, Make a Difference Day was founded to promote volunteer efforts that make our community a better, cleaner, safer place to live, work and play; and,

WHEREAS, last year nearly two million people volunteered on this one day and millions of people benefited from their efforts; and,

WHEREAS, this year marks the tenth annual Make A Difference Day and millions of volunteers, corporations, government leaders and charitable organizations are expected to be participating in the Make a Difference Day activities; and,

WHEREAS, a day of volunteerism and community service is valuable to the

community and gives a feeling of accomplishment and compassion to every participant;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim October 28, 2000, as WAKE A DIFFERENCE DAY in Illinois.

Issued by the Governor August 30, 2000.

Filed by the Secretary of State September 5, 2000.

2000-412

Menopause Awareness Month

WHEREAS, this year, menopause will affect 50 million American women, and more than 1.5 million women in the State of Illinois; and

WHEREAS, if not properly treated by a trained physician or nurse practitioner, the health risks of pre-menopausal and post-menopausal women can result in an increased number of women afflicted by osteoporosis or cardiovascular disease; and

WHEREAS, estrogen depletion, which occurs in menopause, leads to an increase in cardiovascular disease and osteoporosis, resulting in over 530,000 deaths of women per year; and

WHEREAS, menopausal education is important in order to educate women to be aware of their body, as well as the risk factors that exist to prolong and enhance women's lives;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim September 2000 as Menopause Awareness Month in Illinois.

Issued by the Governor August 23, 2000.

Filed by the Secretary of State August 28, 2000.

2000-413

Uruguay Day

WHEREAS, Uruguay celebrates its 175th year of Independence in the year 2000; and

WHEREAS, the Republic of Uruguay has built strong economic and cultural ties with the State of Illinois; and

WHEREAS, Illinois' Uruguayan-American community contributes significantly to our business, professional, civic and cultural life; and

WHEREAS, many Illinois businesses have strong ties with Uruguay; and WHEREAS, Chicago is home to two new architectural achievements by award winning Uruguayan-born architects, Roberto Soffill, who designed the skyscraper on the corner of Wacker and Clark Street, and Rafael Vinoly, who designed the new Graduate School of Business of the University of Chicago;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim August 25, 2000, as URUGUAY DAY in Illinois.

Issued by the Governor August 23, 2000.

Filed by the Secretary of State August 28, 2000.

2000-414

Hans Becherer Day

WHEREAS, Hans W. Becherer's distinguished career as chairman and chief executive officer of Deere & Company and his role as one of the nation's leading executives is drawing to a close due to his forthcoming retirement; and

WHEREAS, under his guidance, John Deere has attained unprecedented financial and operating success while developing new-product technology that has brought about higher levels of agricultural efficiency and productivity; and

WHEREAS, due to his inspired leadership, John Deere has built on its reputation as an active and involved corporate citizen, extending generous support to charitable, civic and educational causes in Illinois and throughout the nation. At the same time, the company has earned countless accolades and awards for being one of the world's most respected enterprises and best employers; and

WHEREAS, under his direction, a major revitalization effort of the riverfront area in downtown Moline, Illinois, has created one of the State's most popular and appealing visitor destinations; and

WHEREAS, his efforts on behalf of farmers and the agricultural community have contributed to the advancement of global agriculture and to a broader world market for Illinois farm commodities; and

WHEREAS, on August 30, 2000, John Deere will mark the conclusion of his distinguished 38-year career;

THEREFORE, I, George H. Ryan, Governor of Illinois, proclaim August 30, 2000, as HANS BECHERER DAY in Illinois and join all Illinoisans in extending our best wishes to Hans on the occasion of his retirement.

Issued by the Governor August 24, 2000.

Filed by the Secretary of State September 5, 2000.

2000-415

ILLINOIS SOCIETY FOR RESPIRATORY CARE WEEK

WHEREAS, the Illinois Society for Respiratory Care is a well-known, prestigious organization of respiratory care practitioners who practice throughout our State; and

WHEREAS, respiratory care practitioners are involved in an extensive number of lifesaving and life-supporting activities, including care for patients diagnosed with asthma, emphysema, pneumonia, and various lung disorders, as well as for seriously ill patients who have suffered cardiac or respiratory arrest; and

WHEREAS, Respiratory Care Practitioners are a vital and important link in our nation's health care delivery system;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim September 10-17, 2000, as ILLINOIS SOCIETY FOR RESPIRATORY CARE WEEK in Illinois, in recognition of the many years of service this selfless group of medical professionals has provided to our citizens.

Issued by the Governor August 24, 2000.

Filed by the Secretary of State September 5, 2000.

2000-416

Ovarian Cancer Awareness Month

WHEREAS, ovarian cancer is the sixth most common cancer among women, excluding non-melanoma skin cancers; and

WHEREAS, the American Cancer Society estimate that about 23,100 new cases of ovarian cancer will be diagnosed in the United States during 2000; and

WHEREAS, ovarian cancer is the fifth most common cause of cancer deaths

among women, causing more deaths than any other cancer of the female reproductive system; and

WHEREAS, it is estimated there will be about 14,000 deaths from ovarian cancer in the United States during 2000; and

WHEREAS, about 78 percent of ovarian cancer patients survive one year after diagnosis and over 50 percent survive longer than five years after diagnosis; and

WHEREAS, if diagnosis and treatment begins before the cancer spreads outside the ovary, the five-year survival rate is 95 percent; and

WHEREAS, only 25 percent of all ovarian cancers are found at an early stage;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim September 2000 as **OVARIAN CANCER AWARENESS MONTH** in Illinois.

Issued by the Governor August 24, 2000.

Filed by the Secretary of State September 5, 2000.

2000-417

SOUTHERN GOSPEL MUSIC MONTH

WHEREAS, Southern Gospel music is a cherished American musical tradition. It celebrates the traditional values Americans have cherished and believed in for more than two centuries; and

WHEREAS, emerging during the early years of this century, sung by church quartets and traveling family groups, today's Southern Gospel music encompasses styles ranging from traditional four-part male quartet harmonies with piano accompaniment to modern country and orchestral stylings; and

WHEREAS, many groups are on the road each weekend throughout America, and especially Illinois, singing Southern Gospel music in churches and concert halls; and

WHEREAS, more than a thousand American radio stations play Southern Gospel music regularly; and

WHEREAS, more Americans are attending concerts and purchasing Southern Gospel recordings than ever before, and Southern gospel music has never been more popular among Americans than it is today;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim September 2000 as **SOUTHERN GOSPEL MUSIC MONTH** in Illinois.

Issued by the Governor August 24, 2000.

Filed by the Secretary of State September 5, 2000.

2000-418

STUART HAWBAKER DAY

WHEREAS, Stuart Hawbaker was born and raised on a grain farm near Decatur, Illinois, where he is now the Extension Unit leader for Macon County; and

WHEREAS, his 35-year career working in Extension began as an Assistant Farm Advisor in Marshall-Putnam Counties, just north of the City of Peoria, Illinois, where he worked with the 4-H program; and

WHEREAS, Stuart is the proud father of two grown children. Stuart and his wife, Nancy, reside on a 15 acre farm. Stuart is known for his sense of humor and writes a popular column in the local newspaper and is considered one of the area's top communicators and Extension educators; and

WHEREAS, in 1967 he was named as the Farm Adviser in Mason County,

Illinois, until 1975 when he was selected as the Extension Adviser for Macon County; and

WHEREAS, Stuart Hawbaker has received numerous awards including the NACAA Achievement Award in 1974 and the Distinguished Service Award in 1979. He was also a frequent winner of the Public Information program, and was recognized for his progressive leadership; and

WHEREAS, Mr. Hawbaker was recognized by the Decatur Jaycees in 1990 with the Distinguished Community Service Award and has received numerous other community citations for his leadership; and

WHEREAS, on Saturday, August 26, Stuart Hawbaker will celebrate with friends and family at a retirement dinner at the Richland Community College - Shilling Center in Decatur, Illinois;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim August 26, 2000, as **STUART HAWBAKER DAY** in Illinois.

Issued by the Governor August 24, 2000.

Filed by the Secretary of State September 5, 2000.

2000-419

DYSTONIA AWARENESS WEEK

WHEREAS, dystonia is a neurological disorder in which powerful, involuntary muscle spasms twist parts or all of the body; and

WHEREAS, such spasms are always disabling and often very painful; and

WHEREAS, the cause of dystonia is unknown and there is no cure; and

WHEREAS, those who suffer from dystonia, their families, and their friends have formed the Dystonia Medical Research Foundation to help one another and to seek a cause and cure; and

WHEREAS, the public knows little about dystonia, which may affect as many as 300,000 people in North America; and

WHEREAS, many citizens react to the physical manifestations of dystonia by avoiding those who have this disorder, causing them to experience isolation and often deep psychological distress; and

WHEREAS, greater recognition and understanding of dystonia both in the medical and the lay communities are highly desirable; and

WHEREAS, widespread public support of efforts to find the causes and cure of dystonia is needed;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim October 15-21, 2000, as **DYSTONIA AWARENESS WEEK** in Illinois.

Issued by the Governor August 25, 2000.

Filed by the Secretary of State September 5, 2000.

2000-420

ISLAMIC SOCIETY OF NORTH AMERICA DAYS

WHEREAS, in 1717 the first Arabic speaking persons arrived in North America; and

WHEREAS, in 1900 the earliest recorded Muslim group was organized in Ross, North Dakota; and

WHEREAS, in 1922 the Islamic Association was formed in Detroit, Michigan; and

WHEREAS, in 1977 the first Islamic Conference of North America met in Newark, New Jersey; and

and WHEREAS, the Islamic Society of North America (ISNA) was formed in 1982; and WHEREAS, the ISNA represents between eight and ten million Muslim families and individuals living and working in America and Canada; and WHEREAS, the ISNA will hold its 37th annual convention in Chicago featuring the ISNA International Bazaar, the First Annual International Business and Trade Fair, and an inter-faith breakfast; THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim September 1-4, 2000, as ISLAMIC SOCIETY OF NORTH AMERICA DAYS in Illinois. Issued by the Governor August 25, 2000. Filed by the Secretary of State September 5, 2000.

2000-421 SOLIDARITY DAY

WHEREAS, August 31, 2000, marks the 20th Anniversary of the Ratification of the "Gdansk Accords," which was the result of the struggles of Solidarity Labor Union against an oppressive communist regime in Poland; and WHEREAS, this historic event is universally recognized as the beginning of the end of communism and its totalitarian threat to peace; and WHEREAS, this historic event was the result of decades of struggles by generations of freedom-loving Poles, both in Poland and abroad; and WHEREAS, the citizens of Illinois and freedom-loving people around the world owe a debt of gratitude to the courageous and determined men and women of the Solidarity movement for helping transform a world in jeopardy of thermonuclear war to a new world in which international confrontation has been replaced by international cooperation; and WHEREAS, the Polish American community of Illinois was vigorously involved in moral, financial, and political support of the democratic aspirations of the Polish nation; and WHEREAS, the Polish American community of Illinois has been a vibrant force in the growth, development, and stability of Illinois from its earliest days; THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim August 31, 2000, as SOLIDARITY DAY in Illinois. Issued by the Governor August 25, 2000. Filed by the Secretary of State September 5, 2000.

2000-422 TURNER SYNDROME AWARENESS WEEK

WHEREAS, Turner Syndrome was first identified by Dr. Henry Turner in 1938. The chromosomal deficiency involved was discovered in 1959; and WHEREAS, Turner Syndrome is a chromosomal abnormality within the female population only, affecting approximately 1 in 2,000 live female births. There are 50,000 to 75,000 girls and women in the United States with this condition; and WHEREAS, Turner Syndrome is caused by the absence of, or part of, one of the two X chromosomes normally found in females; and WHEREAS, diagnosis of Turner Syndrome is confirmed by a simple blood test called a karyotype, which is a chromosomal map; and WHEREAS, short stature is the most visible characteristic of Turner

Syndrome The average height of women with this condition is four feet eight inches or 144 cm; and WHEREAS, most women with Turner Syndrome experience ovarian failure. Since the ovaries normally produce estrogen, Turner Syndrome girls and women lack this essential hormone which results in infertility and incomplete sexual development, the two major characteristics of this condition; and WHEREAS, women and girls with Turner Syndrome must take some form of hormone replacement therapy in order to develop secondary sexual characteristics; and WHEREAS, a variety of other medical and physical features may be related to this condition, and fortunately many of these are of little concern. The most serious ones may be either managed or corrected with proper medical treatment or surgery; and

WHEREAS, Turner Syndrome DOES NOT affect general intelligence. These individuals are at no greater risk of being mentally retarded than anyone else. Individuals with this condition typically have IQs within the normal range, however there is a tendency for poor spatial perceptual abilities; and WHEREAS, because of the relative rarity of this condition, a woman with Turner Syndrome may never meet another individual with this condition in the normal course of social activities which may lead to a sense of alienation and isolation and emphasizes the importance of support groups; and WHEREAS, an international conference for those affected by and/or interested in Turner Syndrome is being held in the Chicago, Illinois, area on September 14-17, 2000;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim September 11-17, 2000, as TURNER SYNDROME AWARENESS WEEK in Illinois. Issued by the Governor August 25, 2000.

Filed by the Secretary of State September 5, 2000.

2000-423 CERTIFIED PROFESSIONAL SECRETARIES MONTH

WHEREAS, the Certified Professional Secretaries (CPS) rating is one of the highest honors attainable in the secretarial profession; and WHEREAS, professionals in government, business, and industry recognize that secretaries who have such a rating can be valuable service to them; and WHEREAS, to obtain this certification, secretaries must satisfactorily demonstrate their judgement, understanding, and administrative capabilities in an examination administered by the Institute for Certifying Secretaries; and WHEREAS, certified secretaries possess knowledge and skill in business, public policy, economics, management, communication, decision-making, financial analysis, and office procedures; and WHEREAS, the CPS rating has been awarded to more than 40,000 secretaries in our nation, nearly 2,000 of whom live in Illinois; and WHEREAS, Illinois ranks fourth in the United States in the number of CPS rated individuals;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim October 2000 as CERTIFIED PROFESSIONAL SECRETARIES MONTH in Illinois. Issued by the Governor August 28, 2000.

Filed by the Secretary of State September 5, 2000.

CONSULATE OF GUATEMALA DAYS

WHEREAS, on September 13, 2000, in commemoration of the 179th anniversary of independence, the Consulate of Guatemala will inaugurate an Art Show of Native Guatemalan Mayan painters at the State of Illinois Building; and

WHEREAS, this show is to support a group of native Guatemalan's called CONAM (National Committee for Mayan's Scholarships), a non-governmental group that through the selling of their art work provides scholarships for children, ages three to eight, of the rural Mayan villages; and

WHEREAS, CONAM helps to provide education and basic services for their communities, helping to promote and preserve their cultural heritage, costumes, and traditions, and to encourage young native artist's initiative to participate in International Events; and

WHEREAS, the Consulate General of Guatemala has the support of the Governor of Illinois by providing the plaza of the State of Illinois Building for the show and the economic support of the Chicago Realtors Association International Section;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim September 8-19, 2000, as CONSULATE OF GUATEMALA DAYS in Illinois.

Issued by the Governor August 28, 2000.

Filed by the Secretary of State September 5, 2000.

2000-425

PAYROLL WEEK

WHEREAS, the American Payroll Association and its 19,000 members have launched a nationwide public awareness campaign that pays tribute to the more than 130 million people who work in the United States and the payroll professionals who support the American system by paying wages, reporting worker earning, and withholding federal employment taxes; and

WHEREAS, payroll professionals in Illinois play a key role in maintaining Illinois' economic health, carrying out such diverse tasks as paying into the unemployment insurance system, providing information for child support enforcement and carrying out tax withholding, reporting, and depositing; and

WHEREAS, payroll departments collectively spend more than \$15 billion annually complying with many federal and State wage tax laws; and

WHEREAS, payroll professionals play an increasingly important role ensuring the economic security of American families by helping to identify non-custodial parents to make sure they comply with their child support mandates; and

WHEREAS, payroll professionals have become increasingly proactive in educating both the business community and the public at large about the payroll tax withholding system; and

WHEREAS, payroll professionals meet regularly with federal and State tax officials to discuss both improving compliance with government procedures and how compliance can be achieved at less cost to both government and business;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim September 18-22, 2000, as PAYROLL WEEK in Illinois.

Issued by the Governor August 28, 2000.

Filed by the Secretary of State September 5, 2000.

2000-426

GERMAN AMERICAN DAY

WHEREAS, the first German immigrants arrived in the United States October 1683; and

WHEREAS, today more than 60 million Americans trace at least a part of their ancestry to Germany; and

WHEREAS, the German American community accounts for the largest ethnic group in Illinois; and

WHEREAS, Erich Himmel, President of the United German American Societies of Greater Chicago, announces that the Annual German Heritage Ceremony and Program will take place at St. Benedict's Church, Sunday, October 8, 2000; and

WHEREAS, German Americans contributed greatly to the State of Illinois in all areas including arts, business, science, medicine, law, government, education and public services;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim October 6, 2000, as GERMAN AMERICAN DAY in Illinois.

Issued by the Governor August 29, 2000.

Filed by the Secretary of State September 5, 2000.

2000-427

IRON OVERLOAD DISEASES AWARENESS WEEK

WHEREAS, one state resident in 200 is estimated to carry the double genes that cause an accumulation of excessive iron stores, resulting in disease of the liver, heart, pancreas, and joints with ultimate fatality if untreated; and

WHEREAS, our state's carrier rate of the single gene expression for hemochromatosis gene is estimated to be 26 in 200; and

WHEREAS, many doctors and their patients are not aware of this high incidence;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim September 17-23, 2000, as IRON OVERLOAD DISEASES AWARENESS WEEK in Illinois.

Issued by the Governor August 30, 2000.

Filed by the Secretary of State September 5, 2000.

2000-428

LITERACY MONTH

WHEREAS, literacy needs to be of the utmost importance for the citizens of Illinois; and

WHEREAS, every child in Illinois should be able to read by the third grade; and

WHEREAS, adult education and literacy are important to foster cross-generation literacy success; and

WHEREAS, adult education literacy helps create a prepared workforce for Illinois;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim September 2000 as LITERACY MONTH in Illinois.

Issued by the Governor August 30, 2000.

Filed by the Secretary of State September 5, 2000.

2000-429

Visit our website

<http://www.sos.sos.state.il.us>

**Illinois Register
Illinois Administrative Code
Order Form**

<input type="checkbox"/>	Subscription to the Illinois Register (52 issues) New <input type="checkbox"/> Renewal <input type="checkbox"/>	\$290 annually
<input type="checkbox"/>	Subscription to the Administrative Code on CD-ROM (4 updates) New <input type="checkbox"/> Renewal <input type="checkbox"/>	\$290 annually
<input type="checkbox"/>	Microfiche sets of Illinois Register 1977 through 1998 Specify Year(s) _____	\$ 200 per set
<input type="checkbox"/>	Back Issue of the Illinois Register (Current Year Only) Volume# _____ Issue# _____ Date: _____	\$ 10 each
<input type="checkbox"/>	Cumulative/Sections Affected Indices 1990-1999 Specify Year(s) _____	\$ 5 each
<input type="checkbox"/>	Cumulative Indices to Illinois Register 1981-1989 Specify Year(s) _____	\$ 1 each
<input type="checkbox"/>	Sections Affected Indices to Illinois Register 1984-1989 Specify Year(s) _____	\$ 1 each

PREPAYMENT IS REQUIRED

Make Checks payable to: **Secretary of State**

Send Payment to: Index Department

111 E. Monroe

Springfield, IL 62756

Fax order to: 217-524-0930

TOTAL AMOUNT OF ORDER

\$

☐ Check ☐ VISA ☐ Master Card ☐ Discover, Card #:

(There is a \$1.50 processing fee for credit card purchases.)

Expiration Date: _____ Signature: _____

Name: _____

Address: _____

City, State, Zip Code: _____

Phone: _____ Fax: _____ Email: _____

Published by Jesse White Secretary of State

HECKMAN

BINDERY, INC.
Bound-To-Please®

APRIL 01

N. MANCHESTER, INDIANA 46962

